

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

CHARLES N LOGGINS
Claimant

APPEAL NO. 13A-UI-12159-LT

**ADMINISTRATIVE LAW JUDGE
DECISION**

COMPASS ONE LLC
Employer

OC: 10/06/13
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant filed an appeal from the October 24, 2013, (reference 01) unemployment insurance decision that denied benefits based upon voluntarily quitting the employment. The parties were properly notified about the hearing. A telephone hearing was held on November 20, 2013. Claimant participated. Employer participated through food service director, Beverly Thompson.

ISSUE:

Did claimant voluntarily quit the employment with good cause attributable to employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full time as a food service worker and was separated from employment on September 11, 2013, when Thompson turned in the separation paperwork. His last day of work was July 30, 2013. He was a no-call/no-show thereafter because he was in jail through September 4.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant's separation from the employment was without good cause attributable to the employer.

Iowa Code § 96.5-1 provides:

An individual shall be disqualified for benefits:

1. Voluntary quitting. If the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department.

871 IAC 24.32(7) provides:

(7) Excessive unexcused absenteeism. Excessive unexcused absenteeism is an intentional disregard of the duty owed by the claimant to the employer and shall be considered misconduct except for illness or other reasonable grounds for which the employee was absent and that were properly reported to the employer.

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). In the context of the Iowa Employment Security Law, the separation is considered a quit. An individual who does not report to the employment because of incarceration is presumed to have quit without good cause attributable to the employer. Iowa Admin. Code r. 871-24.25(16). Employer's attribution of the absences as a voluntary leaving of employment was reasonable as it is not expected to hold employment for incarcerated employees. An employer is entitled to expect its employees to report to work as scheduled or to be notified as to when and why the employee is unable to report to work. Whether voluntary or involuntary the claimant's incarceration on multiple scheduled workdays was a disqualifying separation. Employers are not expected to hold employment for incarcerated employees, especially with the prior attendance warning history. Benefits are denied.

DECISION:

The October 24, 2013, (reference 01) decision is affirmed. Claimant voluntarily left the employment without good cause attributable to the employer. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/css