

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RANDALL ROSS

Claimant

APPEAL NO. 12A-UI-08396-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CARLETON LIFE SUPPORT SYSTEM INC

Employer

OC: 06/17/12

Claimant: Appellant (5)

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated July 11, 2012, reference 01, that concluded he was discharged for work-connected misconduct. A telephone hearing was held on August 7, 2012. The parties were properly notified about the hearing. The claimant participated in the hearing with witnesses Kim Carter and Shawntha Robinson. Samantha Peiffer, Cassie Barber, and John Weatherall participated in the hearing on behalf of the employer.

ISSUE:

Did the claimant voluntarily quit employment without good cause attributable to the employer?

FINDINGS OF FACT:

The claimant worked full-time as an assembly technician from April 23 to May 31, 2012. He was informed and understood that under the employer's work rules, employees were required to notify the employer if they were not able to work as scheduled. The claimant was scheduled to work from 7 a.m. to 3 p.m., Monday through Friday. The employer has an attendance policy that gives points for absences and tardies. Employees are subject to termination at eight points.

The claimant left work early on April 24 due to medical issues and received a half point. He called in sick on May 4 and received a point. He took a personal day on May 11 due to a court appointment and received a point. He was late on May 18 and received a half point. He left work early on May 30 due to a court appointment and received a half point. As of May 31, the claimant had 3.5 points. After he missed work on May 11, his supervisor informed him that he needed to watch his attendance, because he could be discharged for absenteeism.

In February 2012, before he started working for the employer, the claimant had a kidney transplant. He was supposed to have a follow-up appointment with a doctor on June 1. The claimant was hoping to get the appointment rescheduled so he would not have to miss so much work. The claimant called the employer and left a message for a manager. In the message, the claimant told the employer that he was probably going to be 20 minutes late, and if he was going to be absent, he would call the employer.

The claimant discovered that the doctor's appointment was required and could not be rescheduled so he went to the doctor's appointment. He got out from the appointment in the afternoon. The claimant did not report back to work on June 1 and did not call the employer to let anyone know that he was not able to work.

On Saturday, June 2, the claimant was surprised to get his weekly paycheck in the mail. The claimant wrongfully assumed, based on his getting the check, that he was terminated. In fact, the employer had not taken any action to discharge the claimant.

The claimant was absent from work without notice to the employer on June 4. He did not report or call in because he mistakenly believed he had been terminated. That afternoon, the human resources representative called the claimant's cell phone to find out what was going on. The claimant did not answer or return the message was left for him. As of June 4, no decision had yet been made to dismiss the claimant.

The claimant was absent from work without notice to the employer on June 5. Based on his three days of absence without proper notice to the employer on June 1, 4, and 5, the employer considered the claimant to have abandoned his job. A letter was sent to the claimant on June 5 stating that since the employer had not heard from the claimant regarding his absences on June 1, 4, and 5, it considered him to have quit.

The claimant contacted the employer about a folder he had left at work some time on June 5. He did not ask about his employment status or whether he could come back to work. He was told during this conversation that his ID badge had been deactivated, which confirmed in the claimant's mind that he was terminated.

REASONING AND CONCLUSIONS OF LAW:

The unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer or who are discharged for work-connected misconduct. Iowa Code § 96.5-1 and 96.5-2-a.

The findings of fact show how I resolved the disputed factual issues in this case by carefully assessing the credibility of the witnesses and the reliability of the evidence and by applying the proper standard and burden of proof. I believe the employer's testimony that no decision had been made regarding the claimant's employment status until his third absence without notice on June 5.

The unemployment insurance rules state that a claimant absent for three days without giving notice to employer in violation of company rule is presumed to have quit employment without good cause attributable to the employer. 871 IAC 24.25(4). Furthermore, I conclude the claimant's assumption that that he had been discharged, based solely on his getting his paycheck in the mail early, was unreasonable. The claimant said he "put two and two together," but he should have reported to work or checked with the employer on Monday to find out what the true answer was regarding his employment status instead of making an assumption. Even with his absence on Friday, he was not even close to the eight points needed for termination. The claimant's actions in missing work on three consecutive days without proper notice to the employer must be deemed a voluntary quit without good cause attributable to the employer.

DECISION:

The unemployment insurance decision dated July 11, 2012, reference 01, is modified with no change in the outcome. The claimant voluntarily quit employment without good cause attributable to the employer. The claimant is disqualified from receiving unemployment insurance benefits until he has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/kjw