

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**CANDELARIO GONZALEZ**  
Claimant

**APPEAL NO: 13A-UI-07421-BT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**4L CONSTRUCTION INC**  
Employer

**OC: 06/02/13**  
**Claimant: Appellant (1)**

Iowa Code § 96.5-1 - Voluntary Quit

**STATEMENT OF THE CASE:**

Candelario Gonzalez (claimant) appealed an unemployment insurance decision dated June 20, 2013, reference 01, which held that he was not eligible for unemployment insurance benefits because he voluntarily quit his employment with 4L Construction, Inc. (employer) without good cause attributable to the employer. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on July 29, 2013. The claimant participated in the hearing. Ike Rocha interpreted on behalf of the claimant. The employer participated through owner Ryan Luiken.

**ISSUE:**

The issue is whether the claimant's voluntary separation from employment qualifies him to receive unemployment insurance benefits?

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was employed as a full-time general laborer from December 2011 through May 20, 2013. He did not call or report to work after that date for 12 consecutive work days due to incarceration.

**REASONING AND CONCLUSIONS OF LAW:**

The issue is whether the claimant's voluntary separation from employment qualifies him to receive unemployment insurance benefits.

Iowa Code section 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 24.25(16) provides:

Voluntary quit without good cause. In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(16) The claimant is deemed to have left if such claimant becomes incarcerated.

The claimant discontinued working because he was in jail. Under the provisions of the above Administrative Code section, this is a voluntary quit without good cause attributable to the employer. The claimant is disqualified.

The outcome of this case would have been the same if the administrative law judge had concluded that the employer discharged the claimant. His absences due to incarceration were excessive unexcused absences and constituted misconduct. See Iowa Code § 96.5(2)(a) and 871 IAC 24.32(7).

**DECISION:**

The unemployment insurance decision dated June 20, 2013, reference 01, is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until he has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

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Susan D. Ackerman  
Administrative Law Judge

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Decision Dated and Mailed

sda/pjs