

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

GEORGE SKINNER

Claimant

APPEAL 20A-UI-07311-BH-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

BAGCRAFTPAPERCON II LLC

Employer

OC: 04/12/20

Claimant: Appellant (4)

Iowa Code section 96.5(1) – Voluntary Quit

Iowa Administrative Code rule 871-24.25 – Voluntary Quit Without Good Cause Attributable to the Employer

Iowa Administrative Code rule 871-24.26 – Voluntary Quit With Good Cause Attributable to the Employer

Iowa Code section 96.5(11) – Incarceration – Disqualified

Iowa Code section 96.6(2) – Timely Appeal

STATEMENT OF THE CASE:

The claimant, George Skinner, appealed the June 8, 2020 (reference 01) unemployment insurance decision that denied benefits based upon a finding Skinner voluntary quit his job with Bagcraftpapercon II LLC (Bagcraftpapercon II) without good cause attributable to the employer. The agency properly notified the parties of the appeal and hearing.

The undersigned presided over a telephone hearing on August 5, 2020. Skinner participated personally and testified. Skinner's daughter, Melissa Skinner, testified. Bagcraftpapercon II participated through Eddie Payne, who also testified.

ISSUES:

Was Skinner's appeal timely?

Was Skinner's separation from employment with Bagcraftpapercon II a layoff, discharge for misconduct, or voluntary quit without good cause attributable to the employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the undersigned finds the following facts. Bagcraftpapercon II hired Skinner on April 4, 2016. He worked there full time as a press operator. Skinner's last day worked was December 11, 2019. His employment ended on December 17, 2019.

Bagcraftpapercon II had a point system for absences and tardiness. An employee receives one point for a properly reported absence and two points for a "no call-no show." If an employee

reached ten points total under the system, the employee “pointed out,” meaning the employee was eligible for discharge.

Bagcraftpapercon II also had a rule regarding unreported absences. If an employee was absent for three days without notice given to the company, the employee is deemed to have voluntarily left employment.

Skinner had accrued six points as of his last day worked. Skinner was jailed for a probation violation on December 15, 2019. He faced no criminal charges for the conduct that resulted in his jailing.

Skinner was scheduled to work on December 15, 2019. He did not call Bagcraftpapercon II to provide notice that he would be absent because he was in jail. He was also supposed to work on December 16, 2019. Skinner was again absent. His wife left a voicemail stating he would not be at work that day and that she would follow up.

On December 17, 2019, Skinner was absent without notice again. Payne tried calling the number of the woman who left a voicemail, but no one answered. Bagcraftpapercon II then decided to end Skinner’s employment because he had three no call-no shows in a row.

REASONING AND CONCLUSIONS OF LAW:

Because Skinner is disqualified from benefits under Iowa Code section 96.5(11), this decision assumes without deciding that his appeal was timely filed under Iowa Code section 96.6(2).

Under Iowa Code section 96.5(11), a claimant is disqualified from benefits if the agency finds that the claimant became separated from employment due to the individual’s incarceration in a jail, municipal holding facility, or correctional institution or facility, unless the agency finds all of the following:

- (1) The individual notified the employer that the individual would be absent from work due to the individual’s incarceration prior to any such absence.
- (2) Criminal charges relating to the incarceration were not filed against the individual, all criminal charges against the individual relating to the incarceration were dismissed, or the individual was found not guilty of all criminal charges relating to the incarceration.
- (3) The individual reported back to the employer within two work days of the individual’s release from incarceration and offered services.
- (4) The employer rejected the individual’s offer of services.

Here, the record shows Skinner did not satisfy the first requirement. He did not notify the employer that he would be absent from work due his incarceration prior to any such absence. It is undisputed between the parties that Skinner did not give Bagcraftpapercon II notice of his December 15, 2019 absence due to incarceration prior to the absence. No addition analysis is required. Therefore, Skinner is not eligible for regular unemployment insurance benefits under state law.

DECISION:

Regular Unemployment Insurance Benefits Under State Law

The June 8, 2020 (reference 01) unemployment insurance decision is affirmed in part and modified in part. Skinner is disqualified from benefits because he failed to give the employer advanced notice of an absence caused by his incarceration. Benefits are withheld until such time as Skinner has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Pandemic Unemployment Assistance (PUA) Under the Federal CARES Act

Even though Skinner is not eligible for regular unemployment insurance benefits under state law, he may be eligible for federally funded unemployment insurance benefits under the CARES Act. Section 2102 of the CARES Act creates a new temporary federal program called Pandemic Unemployment Assistance (PUA) that in general provides up to 39 weeks of unemployment benefits. An individual receiving PUA benefits may also receive the \$600 weekly benefit amount (WBA) under the Federal Pandemic Unemployment Compensation (FPUC) program if Skinner is eligible for such compensation for the week claimed.

This decision does not address whether Skinner is eligible for PUA. For a decision on such eligibility, Skinner must apply for PUA, as noted in the instructions provided in the "Note to Claimant" below.

NOTE TO CLAIMANT:

- This decision determines you are not eligible for regular unemployment insurance benefits under state law. If you disagree with this decision you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision.
- If you do not qualify for regular unemployment insurance benefits under state law and are currently unemployed for reasons related to COVID-19, you may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** For more information about how to apply for PUA, go to:

<https://www.iowaworkforcedevelopment.gov/pua-information>



Ben Humphrey
Administrative Law Judge

August 10, 2020
Decision Dated and Mailed

bh/scn