

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

CALEB C RICE
Claimant

JELD-WEN INC
Employer

APPEAL 17A-UI-04791-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 04/02/17
Claimant: RESPONDENT (4)**

Iowa Code § 96.5(1)g – Voluntary Leaving/Requalification

STATEMENT OF THE CASE:

The employer filed an appeal from the April 28, 2017, (reference 01) unemployment insurance decision that allowed benefits. The parties were properly notified about the hearing. A telephone hearing was held on May 24, 2017. Claimant did not participate. Employer participated through Sharon Miller, Plant Administrator. Employer's Exhibit One was entered and received into the record.

ISSUES:

Did the claimant have a disqualifying separation from employment with this employer, and if so, has he requalified for unemployment insurance benefits since that separation?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full-time as a general laborer beginning on August 25, 2016 through October 7, 2016 when he voluntarily quit. The claimant simply stopped reporting to work after September 19, 2017. The claimant had previously told the employer that he needed time to be off work to adjust his medications. The claimant called the employer on September 20 and left a voice mail message indicating he was going to see his doctor to get his medications adjusted and would return to work with a doctors' note to cover his absences. When the claimant did not show up for work the employer tried to contact him to no avail. The employer waited until October 7 for the claimant to contact them or return. When he had not returned by then, the employer considered him to have voluntarily quit his employment. The employer's written policy, a copy of which had been given to the claimant provides that any employee who is a three day no call-no show will be considered to have voluntarily quit their job.

Agency records show that the claimant has earned over eight-thousand (\$8,000.00) dollars in insured wages from a new employer since his separation from this employer. As the claimant's weekly benefit amount is \$156.00 he has requalified for unemployment insurance benefits since his separation from this employer.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left his employment without good cause attributable to the employer but has requalified for benefits.

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2) (amended 1998). 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.

Iowa Admin. Code r. 871-24.25(4) 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:

(4) The claimant was absent for three days without giving notice to employer in violation of company rule.

Inasmuch as the claimant failed to report for work or notify the employer for three consecutive workdays in violation of the employer policy, the claimant is considered to have voluntarily left employment without good cause attributable to the employer.

Iowa Code § 96.5-1-g 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. But the individual shall not be disqualified if the department finds that:

g. The individual left work voluntarily without good cause attributable to the employer under circumstances which did or would disqualify the individual for benefits, except as provided in paragraph "a" of this subsection but, subsequent to the leaving, the individual worked in and was paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

However, the administrative law judge further concludes from information contained in the administrative record that the claimant has requalified for benefits since the separation from this employer. Accordingly, benefits are allowed and the account of the employer, Jeld-Wen, Inc. (account number 165371) shall not be charged.

DECISION:

The April 28, 2017, (reference 01) decision is modified in favor of the appellant. The claimant quit without good cause attributable to the employer, but has requalified for benefits since the separation. Benefits are allowed, provided the claimant is otherwise eligible. The account of the employer shall not be charged.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/scn