

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**KEVIN C STUART**  
Claimant

**APPEAL NO. 09A-UI-02188-NT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**HY-VEE INC**  
Employer

**OC: 01/11/09**  
**Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Quit

**STATEMENT OF THE CASE:**

Kevin Stuart filed an appeal from a decision of a representative dated February 6, 2009, reference 01, which denied benefits based upon his separation from Hy-Vee Inc. After due notice was issued, a hearing was held by telephone on March 5, 2009. Mr. Stuart participated personally. The employer participated by Mr. Timothy Spier, Hearing Representative and witnesses Jeff Canfield, Lonnie Brock and Steve Graham. Exhibits One and Two were received into evidence.

**ISSUE:**

At issue in this matter is whether the claimant quit for good cause attributable to the employer.

**FINDINGS OF FACT:**

The administrative law judge having heard the testimony and considered all of the evidence in the record, finds: The claimant was most recently employed by Hy-Vee Incorporated from August 6, 2007 until November 30, 2008. Mr. Stuart held the position of full-time bakery worker and was paid by the hour. His immediate supervisor was Lonnie Brock.

Mr. Stuart left his employment with Hy-Vee Incorporated by discontinuing to report for scheduled work after November 14, 2008. The claimant did not report for scheduled work on November 15, 16 or 17, 2008 and provided no notification to the employer that he would be absent. The claimant did not again report to work. Under company policy employees are considered to have voluntarily abandoned their job if they fail to report or provide notification for three or more consecutive workdays.

Approximately three weeks after the claimant last reported to work he contacted the store manager, Mr. Canfield, requesting his final paycheck. Mr. Canfield met with the claimant personally. At that time the claimant indicated that his reasons for leaving were solely related to personal problems and issues.

It is the claimant's position that he left his employment because he had been required to work on the nightshift by his immediate supervisor. During the course of his employment Mr. Stuart had worked various nightshifts as needed by the employer. The employer was unaware that a request for the claimant to fill in on a nightshift would cause the claimant to leave employment as the claimant did not indicate that it would cause him to leave. Mr. Stuart did not dispute from upper management the decision to place him on a nightshift for a temporary period to meet store staffing needs.

### **REASONING AND CONCLUSIONS OF LAW:**

The question is whether the evidence establishes the claimant quit for good cause attributable to the employer. It does not.

The evidence in the record establishes that Mr. Stuart quit his employment by discontinuing to report for scheduled work after November 14, 2008. After failing to report for three or more consecutive work shifts without notification to the employer, the employer reasonably concluded that the claimant had chosen to relinquish his position with the company. The evidence in the record establishes that the claimant knew at the time of hire that he would be required to work nights upon occasion. The evidence also establishes that Mr. Stuart worked various nights while employed by Hy-Vee Incorporated. While the claimant may have been dissatisfied with a decision to temporarily require him to work nights he did not follow a reasonable course of action by complaining about the decision or bringing the matter to the attention of upper management before quitting his job. The employer was thus precluded from taking any action that would have allowed Mr. Stuart to continue to be employed.

The administrative law judge concludes based upon the totality of the evidence in the record that the claimant's primary reason for leaving his employment was due to personal factors. The claimant did not complain to upper management about his scheduling and did not complain about scheduling to the store director when he personally met with Mr. Stuart approximately three weeks after the claimant's last day of work.

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.

For the reasons stated herein the administrative law judge concludes that the claimant voluntarily quit employment without good cause attributable to the employer. Unemployment insurance benefits are withheld.

### **DECISION:**

The representative's decision dated February 6, 2009, reference 01, is affirmed. The claimant voluntarily quit without good cause attributable to the employer. The claimant is disqualified and

benefits are withheld until he has earned ten times his weekly benefit amount, provided that he is otherwise eligible.

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Terence P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

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