

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JEFFREY L MULLER
Claimant

APPEAL NO. 09A-UI-05648-E2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

MENARD INC
Employer

**Original Claim: 12/21/08
Claimant: Appellant (2)**

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

The claimant filed an appeal from a representative's decision dated January 29, 2009, reference 02, which held the claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on May 6, 2009. The claimant participated. The employer participated by Stacey Trussoni.

ISSUE:

The 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 having considered all of the evidence in the record, finds: The claimant was discharged for attendance problems. The claimant received a warning on November 26 that he had 3.25 points and that if he reached 4 points, he would be terminated. Each tardy was worth ¼ point. Absence without a doctor's excuse was worth 1 point, and a no-call/no-show was worth 2 points. The claimant was scheduled to work on December 1, 2008. He called in before the beginning of his shift and informed his supervisor he needed to take time off as his aunt was in a hospice and was dying. The claimant did not report at work on December 1, 2, and 3, 2008, and was deemed to have quit.

The claimant called his employer on December 10, 2008 to make arrangements to go back to work and he was told he was terminated. The claimant offered to provide documentation about his aunt's illness and death.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left the employment with good cause attributable to the employer.

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.

Iowa Code section 96.5-1-f 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:

f. The individual left the employing unit for not to exceed ten working days, or such additional time as may be allowed by the individual's employer, for compelling personal reasons, if so found by the department, and prior to such leaving had informed the individual's employer of such compelling personal reasons, and immediately after such compelling personal reasons ceased to exist the individual returned to the individual's employer and offered the individual's services and the individual's regular or comparable work was not available, provided the individual is otherwise eligible; except that during the time the individual is away from the individual's work because of the continuance of such compelling personal reasons, the individual shall not be eligible for benefits.

The claimant notified his supervisor of his need to be with his aunt at the hospice. He reported back to his employer within ten days. The claimant had a compelling personal reason to be away from work. The claimant was discharged. Under the law, the claimant's termination is deemed to be voluntary quit with good cause attributable to the employer.

DECISION:

The January 29, 2009, reference 02, decision is reversed. The claimant voluntarily left employment with good cause attributable to the employer. Benefits are allowed, provided he is otherwise eligible.

James Elliott
Administrative Law Judge

Decision Dated and Mailed

jfe/kjw