

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ASA R BRANCH**  
Claimant

**APPEAL NO. 16A-UI-09681-S1-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ALANIZ LLC**  
Employer

**OC: 10/25/15**  
**Claimant: Appellant (2)**

Section 96.5-1 - Voluntary Quit

**STATEMENT OF THE CASE:**

Asa Branch (claimant) appealed a representative's August 31, 2016, decision (reference 03) that concluded he was not eligible to receive unemployment insurance benefits because he voluntarily quit work with Alaniz (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for September 22, 2016. The claimant participated personally. The employer did not provide a telephone number where it could be reached and therefore, did not participate in the hearing.

**ISSUE:**

The issue is whether the claimant was separated from employment for any disqualifying reason.

**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 hired on October 6, 2014, as a full-time machine operator. The claimant received the employer's handbook. The handbook indicates an employee will be terminated if he accumulates eight attendance points in a twelve-month rolling period. The claimant was absent once due to illness and twice for transportation problems. He was late a couple times. He accumulated approximately four attendance points.

On June 24, 2016, the employer issued the claimant his first warning. The warning was a decision day and said he had accumulated nine attendance points. The claimant had to decide whether he was going to stay and not be absent from work for five months or quit. The claimant talked to the human resources department about the extra points. They acknowledged the points were assessed in error but the decision day warning was not rescinded. The claimant quit work due to his working conditions.

**REASONING AND CONCLUSIONS OF LAW:**

For the following reasons the administrative law judge concludes the claimant voluntarily quit work with good cause attributable to the employer.

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. 871-24.26(4) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(4) The claimant left due to intolerable or detrimental working conditions.

The law presumes a claimant has left employment with good cause when he quits because of intolerable or detrimental working conditions. 871 IAC 24.26(4). It would be reasonable for the employee to inform the employer about the conditions the employee believes are intolerable or detrimental and to have the employee notify the employer that he intends to quit employment unless the conditions are corrected. This would allow the employer a chance to correct those conditions before a quit would occur. However, the Iowa Supreme Court has stated that a notice of intent to quit is not required when the employee quits due to intolerable or detrimental working conditions. Hy-vee, Inc. v. Employment Appeal Board and Diyonda L. Avant, (No. 86/04-0762) (Iowa Sup. Ct. November 18, 2005). The claimant notified the employer of the condition and the employer did not fix the problem. The claimant subsequently quit due to those conditions. The claimant is eligible to receive unemployment insurance benefits.

#### **DECISION:**

The representative's August 31, 2016, decision (reference 03) is reversed. The claimant voluntarily quit with good cause attributable to the employer. Benefits are allowed, provided claimant is otherwise eligible.

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Beth A. Scheetz  
Administrative Law Judge

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Decision Dated and Mailed

bas/pjs