

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**JUSTIN E BAKER**  
Claimant

**BRM II LC**  
Employer

**APPEAL 21A-UI-13102-JC-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 03/14/21  
Claimant: Appellant (1)**

Iowa Code § 96.5(1) – Voluntary Quitting  
Iowa Code § 96.5(2)a – Discharge for Misconduct

**STATEMENT OF THE CASE:**

The claimant/appellant, Justin E. Baker, filed an appeal from the May 25, 2021 (reference 01) Iowa Workforce Development (“IWD”) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on August 4, 2021. The claimant participated personally. The employer, BRM II LC., participated through Jim Snell. Marty Blount II also testified.

The administrative law judge took official notice of the administrative records. Employer Exhibit 1 was admitted. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUES:**

Was the claimant discharged for disqualifying job-related misconduct?  
Did claimant voluntarily quit the employment with good cause attributable to employer?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed part-time as a crew member and was separated from employment on December 30, 2020, after failing to report to his shifts on December 26, 27, 28, or 29, 2020. Continuing work was available to the claimant had he not abandoned his job.

The claimant had prior periods of employment and was rehired to work on December 26, 2020. Employer has a written policy which states three consecutive no call/no shows will result in separation by job abandonment. Claimant had been previously trained on the policy and was aware he was to notify the manager on duty if he could not work, at least two hours prior to his shift. Claimant had been scheduled to work December 26, 27, 28, 29 and 30, 2020. Claimant did not show up to his shifts. Separation thereby ensued.

## REASONING AND CONCLUSIONS OF LAW:

Iowa unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer or who are discharged for work-connected misconduct. Iowa Code §§ 96.5(1) and 96.5(2)a. They remain disqualified until such time as they requalify for benefits by working and earning insured wages ten times their weekly benefit amount. *Id.*

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.

The court in *Reelfs v. EAB*, No. 06-1750 (Iowa App. 6/27/2007) held that absences for more than three consecutive work days without proper notification and authorization shall be presumed to be a quit without good cause. In this case, the credible evidence supports claimant had multiple periods of employment with the employer and had been rehired with a start date of December 26, 2020. Employer had scheduled claimant to work December 26, 27, 28, 29 and 30, 2020. Claimant failed to present credible evidence that he worked the shifts or alternately properly reported his absences. Therefore, employer reasonably presumed based on claimant's history, combined with the lack of communication and employer policy, that claimant had abandoned the job. Claimant may have had personally good reasons to quit or not perform work the period in question, but has failed to establish he quit the employment with good cause attributable to the employer, according to Iowa law. Benefits are denied.

**DECISION:**

The unemployment insurance decision dated May 25, 2021, (reference 01) is AFFIRMED. The claimant voluntarily quit the employment without good cause attributable to the employer. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.



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Jennifer L. Beckman  
Administrative Law Judge  
Unemployment Insurance Appeals Bureau  
Iowa Workforce Development  
1000 East Grand Avenue  
Des Moines, Iowa 50319-0209  
Fax 515-478-3528

August 31, 2021  
Decision Dated and Mailed

jlb/scn

**NOTE TO CLAIMANT:** This decision determines you are not eligible for regular unemployment insurance benefits. 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. Individuals who do not qualify for regular unemployment insurance benefits, but who are unemployed or continue to be unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>. If this decision becomes final or if you are not eligible for PUA, you may have an overpayment of benefits.

**ATTENTION:** On May 11, 2021, Governor Reynolds announced that Iowa will end its participation in federal pandemic-related unemployment benefit programs effective June 12, 2021. The last payable week for PUA in Iowa will be the week ending June 12, 2021. Additional information can be found in the press release at <https://www.iowaworkforcedevelopment.gov/iowa-end-participation-federal-unemployment-benefit-programs-citing-strong-labor-market-and>.

You may find information about food, housing, and other resources at <https://covidrecoveryiowa.org/> or at <https://dhs.iowa.gov/node/3250>

Iowa Finance Authority also has additional resources at <https://www.iowafinance.com/about/covid-19-ifa-recovery-assistance/>