

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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**JIM C LATTA**  
Claimant

**THE STRUB COMPANY INC**  
Employer

**APPEAL NO. 19A-UI-02159-B2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 02/10/19**  
**Claimant: Appellant (1)**

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Iowa Code § 96.5-1 – Voluntary Quit  
Iowa Code § 96.4-3 – Able and Available  
Iowa Code § 96.6-2 – Timeliness of Appeal

**STATEMENT OF THE CASE:**

Claimant filed an appeal from a decision of a representative dated February 26, 2019, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on March 27, 2019. Claimant participated personally. Employer participated by Carl Strub III. Claimant's Exhibit A was admitted.

**ISSUE:**

Whether claimant quit for good cause attributable to employer?

Whether claimant is able and available for work?

Whether the appeal is timely?

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant stated that he did not receive the appeal under this reference number. A separate Unemployment Insurance decision on the same exact matter was issued on March 7, 2019 (Ref 02) and claimant filed a timely appeal in that matter. Claimant last worked for employer on January 26, 2019. Employer discharged claimant on February 11, 2019 because claimant was a no-call/no-show for work on January 31, and February 1, 4, 5, and 6, 2019.

Claimant worked as a plumber for employer. Claimant has had issues with depression and had missed a good deal of work during the Fall of 2018. Claimant met with employer in December, 2018 and at that meeting employer expressed to claimant that he could not continue to be a no--call/no-show for work. During the Fall of 2018, claimant did have a medical excuse for many of his absences.

Claimant did not have a medical excuse for his absences in January through February 2019.

Claimant stated that he is now able and available for work, but can no longer physically work as a plumber.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Code § 96.5-1 provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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.

Iowa Code section 96.6(2) provides:

2. Initial determination. A representative designated by the director shall promptly notify all interested parties to the claim of its filing, and the parties have ten days from the date of mailing the notice of the filing of the claim by ordinary mail to the last known address to protest payment of benefits to the claimant. The representative shall promptly examine the claim and any protest, take the initiative to ascertain relevant information concerning the claim, and, on the basis of the facts found by the representative, shall determine whether or not the claim is valid, the week with respect to which benefits shall commence, the weekly benefit amount payable and its maximum duration, and whether any disqualification shall be imposed. The claimant has the burden of proving that the claimant meets the basic eligibility conditions of section 96.4. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to section 96.5, except as provided by this subsection. The claimant has the initial burden to produce evidence showing that the claimant is not disqualified for benefits in cases involving section 96.5, subsections 10 and 11, and has the burden of proving that a voluntary quit pursuant to section 96.5, subsection 1, was for good cause attributable to the employer and that the claimant is not disqualified for benefits in cases involving section 96.5, subsection 1, paragraphs "a" through "h". Unless the claimant or other interested party, after notification or within ten calendar days after notification was mailed to the claimant's last known address, files an appeal from the decision, the decision is final and benefits shall be paid or denied in accordance with the decision. If an administrative law judge affirms a decision of the representative, or the appeal board affirms a decision of the administrative law judge allowing benefits, the benefits shall be paid regardless of

any appeal which is thereafter taken, but if the decision is finally reversed, no employer's account shall be charged with benefits so paid and this relief from charges shall apply to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

The administrative law judge finds that claimant's timely appeal in Reference 02 dealing with the same job separation constitutes a timely appeal in this case as both cases deal with the same employer, same separation and same appellant.

The administrative law judge holds that the evidence has failed to establish that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship by being a no-call/no-show for work for more than three days after he'd been specifically informed not to do act in that way.

Ordinarily "good cause" is derived from the facts of each case keeping in mind the public policy stated in Iowa Code Section 96.2. *O'Brien v. EAB* 494 N.W.2d 660, 662 (Iowa 1993) (citing *Wiese v. IA Dept. of Job Serv.*, 389 N.W.2d 676, 680 (Iowa 1986)). "The term encompasses real circumstances, adequate excuses that will bear the test of reason, just grounds for the action, and always the test of good faith." *Wiese v. IA Dept. of Job Serv.*, 389 N.W.2d 676, 680 (Iowa 1986). "Common sense and prudence must be exercised in evaluating all of the circumstances that led to an employee's quit in order to attribute the cause for the termination." *Id.* Claimant's mental health difficulties do not constitute a good cause reason for claimant not to provide medical documentation to employer when he would be absent from work for his issues. His no-call/no-show for work was not for good cause attributable to employer.

**DECISION:**

The decision of the representative dated February 26, 2019, reference 01, is affirmed. Claimant is deemed to have filed a timely appeal in this matter, but has not established that his voluntary quit was for good cause attributable to employer. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.

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Blair A. Bennett  
Administrative Law Judge

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Decision Dated and Mailed

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