

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MICHAEL A SUMNER**  
Claimant

**APPEAL NO. 10A-UI-02281-ST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CORTEZ TRUCK SALES  
& EQUIPMENT INC**  
Employer

**Original Claim: 01/10/10  
Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Quit  
871 IAC 24.25(4) – Absent Without Notice

**STATEMENT OF THE CASE:**

The claimant appealed a department decision dated February 2, 2010, reference 01, that held he voluntarily quit without good cause attributable to his employer on April 11, 2009, and that denied benefits. A telephone hearing was held on March 24, 2010. The claimant participated. Cliff Pool, General Manager, participated for the employer.

**ISSUE:**

Whether the claimant voluntarily quit without good cause attributable to the employer.

**FINDINGS OF FACT:**

The administrative law judge having heard the testimony of the witnesses and having considered the evidence in the record, finds: The claimant worked for the employer until his termination for excessive absenteeism on September 24, 2007. The claimant was re-hired as a full-time fabricator/welder on December 21, 2007, and last worked six hours on April 10, 2009. The claimant was absent from scheduled work from April 10 until he picked up his final paycheck and tools on or about May 6. The claimant did not call the employer to explain his absence from work. Although the claimant believes he is suffering from depression, he is not under the care of any doctor.

Although the employer has a lenient attendance policy, it considers a three-day no-call, no-show to work to be a voluntary quit.

**REASONING AND CONCLUSIONS OF LAW:**

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.

871 IAC 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 administrative law judge concludes the claimant voluntarily quit without good cause attributable to his employer due to job abandonment on April 10, 2009.

The claimant failed to offer a good cause for failing to call in or report for scheduled work for more than 25 days.

**DECISION:**

The department decision dated February 2, 2010, reference 01, is affirmed. The claimant voluntarily quit without good cause due to job abandonment on April 10, 2009. Benefits are denied until the claimant re-qualifies by working in and being paid wages for insured work equal to ten times his weekly benefit amount, provided the claimant is otherwise eligible.

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Randy L. Stephenson  
Administrative Law Judge

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Decision Dated and Mailed

rls/kjw