

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

**JERRY G COLES**  
Claimant

**APPEAL NO: 17A-UI-13321-TN-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CORE STRUCTURAL SERVICES LLC**  
Employer

**OC: 05/21/17  
Claimant: Appellant (1)**

Iowa Code § 96.5(1) – Voluntary Leaving

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from a representative's unemployment insurance decision dated December 11, 2017, reference 01, which denied unemployment insurance benefits finding that the claimant quit work on November 3, 2017, by failing to report for three days without notifying the employer of the reason. After due notice was provided, a telephone hearing was held on January 18, 2018. Claimant participated. The employer participated by Mr. Jesse Miller, Owner/Manager. A second witness, Mr. Mike Ooogle was not available at the number provided.

**ISSUE:**

Whether the claimant left employment with good cause attributable to the employer.

**FINDINGS OF FACT:**

The administrative law judge, having considered all of the evidence in the record, finds: Jerry Coles was employed by Core Structural Services, LLC from mid-October, 2017 until November 3, 2017. Mr. Coles has worked as a full-time laborer and was paid by the hour. His immediate supervisor was Mr. Jim Wadell.

Mr. Coles last reported for scheduled work with Core Structural Services, LLC on Tuesday, October 31, 2017. The claimant did not report for scheduled work on Wednesday, November 1, Thursday, November 2, or Friday, November 3, 2017 and did not notify the employer of the reason. Mr. Coles and the crew that he worked with was assigned to work at the same construction project location for an extended period of time and work continued to be available to Mr. Coles at that work site throughout the work week. If there is a change in work sites, or other information that is pertinent to the next day's work, the company's practices is to have the foreman in charge send text messages to employee's to inform them of the change. In the absence of any text messages, employees are to assume there work will continue the next working day at the same job site, unless they have been specifically instructed to the contrary.

Mr. Coles reported to the employer's facility late in the day of Friday, November 3, 2017 to pick up his paycheck. At that time, the claimant spoke with Jesse Miller to apologize for his failure to

report for work or to provide notification to the employer for the three consecutive work days in question. The claimant stated he had not reported because of personal issues at home. Mr. Miller explained to the claimant at that time that the company had assumed that he had quit work because he had not reported or provided notification to the employer as required by company policy and that the claimant had been replaced with a new employee.

It is the claimant's position that he did not report or notify the employer for the three consecutive work days in question because his foreman failed to send him a text message on the evening before each day informing him of the location of the next day's work.

#### **REASONING AND CONCLUSIONS OF LAW:**

Iowa Code section 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.

The testimony in this matter is disputed. The administrative law judge having questioned the witnesses and having considered the testimony and the light thereof, finds the testimony of Jesse Miller to be more credible and therefore gives it more weight.

Mr. Miller's testimony reflects that it is common practice to send text messages to employee's on the night preceding work, only if there is a change in work locations, job duties, or other changes employee's need to be made aware of. Mr. Miller testified that in the absence of those circumstances, text messages are not usually sent to hourly employees and the employees are expected to continue to report and perform services at the last work location where they had been assigned by the company. Mr. Miller further testified that it is an established company policy that employees must call in each day to notify the employer of an impending absence and that if an employee fails to report or provide notification to the employer for three consecutive work days, they are considered to have voluntarily quit their employment under company policy.

Although the administrative law judge is aware that Mr. Coles maintains that it was his supervisors practice to send text messages to each and every employee each night to confirm

to the employee that they would be working at the same location doing the same things each day, this testimony strains credibility.

The administrative law judge concludes that the preponderance of the evidence in the record establishes that Mr. Coles left employment by failing to report for three consecutive work days in a row and not provide notice to the employer, in violation of the company's call in policy. Under the provisions of the company's attendance policy, an employee who fails to report for three consecutive work days without notification is considered to have voluntarily quit employment.

The claimant has established no good cause reason for failing to report for three consecutive work days and for failing to notify his employer as required. The claimant quit without good-cause attributable to the employer, accordingly, the claimant is disqualified for unemployment insurance benefits until he has worked and been paid wages for insured work equal to ten times his weekly benefit amount and is otherwise eligible.

**DECISION:**

The representative's decision dated December 11, 2017, reference 01, is affirmed. Claimant left employment by failure to report for scheduled work for three consecutive work days and not notifying the employer of the reason, in violation of company policy. Unemployment insurance benefits are withheld until he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount and is otherwise eligible.

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Terry P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

tn/scn/rvs