

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KELLEN MCGINNIS

Claimant

UNIPARTS OLSEN INC

Employer

APPEAL NO: 13A-UI-03898-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 02/24/13

Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit
871 IAC 24.25(4) – Job Abandonment

STATEMENT OF THE CASE:

The claimant appealed a department decision dated March 21, 2013, reference 01, that held he voluntarily quit without good cause attributable to his employer on February 9, 2013, and benefits are denied. A telephone hearing was held on May 7, 2013. The claimant participated. Stephanie Tuegel, HR Manager, participated for the employer. Employer Exhibit One was received as evidence.

ISSUE:

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

FINDINGS OF FACT:

The administrative law judge having heard the witness testimony and having considered the evidence in the record, finds: The claimant worked for the employer as a full-time grinder operator from May 24, 2012 to February 2, 2013. The claimant knew it was employer policy to call-in or come-in to check on available work each day. Claimant worked a weekend package of Friday, Saturday, and Sunday, 12-hour days. He worked 36-hours but he was paid for 40 hours.

Claimant suffers from depression and he is prescribed medication. He felt he had a depression episode after his medication ran out sometime in January 2013. He last worked on Saturday February 2. He was granted a vacation day for February 3. He was a no-call/no-show to work on February 8, 9 & 10. He was terminated as a voluntary quit due to job abandonment on February 15.

The employer HR representative and claimant's supervisor Brad Anderson checked the absence call-in line and there was no report from claimant on February 8, 9 & 10, as there was no similar report for February 15, 16 & 17. The employer mailed claimant an employment termination letter sometime the week ending February 15 stating he voluntarily quit due to job abandonment. The employer policy provided to claimant in its employee handbook is a two-day no-call/no-show to work is 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 February 10, 2013.

The most credible evidence is claimant failed to report his absences for a three-day period of scheduled work that is February 8, 9 & 10. This credibility is based on no employer telephone record of claimant reporting absences on these three days, as well as the next week three-day period.

If claimant knew he had a depression issue coupled with his medication expiring in January, he needed to address it with his doctor and make a disclosure to the employer on or before his last day of work on February 2. Claimant made no effort to obtain medical information to contest his employment separation. In addition, he listed his employment separation issue on his claim filing as a lay-off not a termination/discharge.

DECISION:

The department decision dated March 21, 2013, reference 01, is affirmed. The claimant voluntarily quit without good cause due to job abandonment on February 15, 2013 when he failed to check in for work. Benefits are denied until the claimant requalifies by working in and being paid wages for insured work equal to ten times his weekly benefit amount, provided the claimant is otherwise eligible.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/pjs