

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

---

**SAMMY N STEELE**  
Claimant

**MACKAY MITCHELL ENVELOPE CO LLC**  
Employer

**APPEAL 15A-UI-07372-JCT**  
**ADMINISTRATIVE LAW JUDGE**  
**DECISION**

**OC: 06/07/15**  
**Claimant: Appellant (1)**

---

Iowa Code § 96.5(1) – Voluntary Quitting

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the June 24, 2015, (reference 01) unemployment insurance decision that denied benefits based upon separation. The parties were properly notified about the hearing. A telephone hearing was held on July 29, 2015. The claimant participated personally. The employer participated through Mike Owens. Employer Exhibit One was admitted into evidence.

**ISSUE:**

Did the 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 full-time as an adjuster and was separated from employment on May 29, 2015.

The claimant last performed work on May 26, 2015. The claimant learned on May 28, 2015, that he had an outstanding warrant based on a 2012 Operating While Intoxicated (OWI) arrest. The claimant called the sheriff and was recommended to turn himself in. The claimant did not notify the employer of his plans, but did turn himself in. The claimant then had a no-call/no-show for his shift May 29, 2015, because he was incarcerated. The claimant remained incarcerated for several days but only missed the May 29, 2015 shift.

The employer has a “one and done” no-call/no-show policy, which requires employees to call off and leave a message if they are going to miss work. The claimant was made aware of the policy at hire. The employer denied receiving any message from the claimant about his May 29, 2015 shift. Provided the strictness of their policy, the employer keeps apprised of any possible phone malfunctions or issues, and did not report any during May 29, 2015.

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

For the reasons that follow, the administrative law judge concludes claimant's separation from the employment was without good cause attributable to the employer.

Iowa Code § 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.

Iowa Admin. Code r. 871-24.25(16) 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:

(16) The claimant is deemed to have left if such claimant becomes incarcerated.

In the context of the Iowa Employment Security Law, the separation is considered a quit. An individual who does not report to the employment because of incarceration is presumed to have quit without good cause attributable to the employer. Iowa Admin. Code r. 871-24.25(16). An employer is entitled to expect its employees to report to work as scheduled or to be notified as to when and why the employee is unable to report to work. The claimant's incarceration on was not a good-cause reason for the separation attributable to the employer. The employer's attribution of the absence as a voluntary leaving of employment was reasonable as it is not expected to hold employment for incarcerated employees, and consistent with the employer's no call/no show policy. Employers are not expected to hold employment for incarcerated employees regardless of prior warning or attendance history. Benefits are denied.

**DECISION:**

The June 24, 2015, (reference 01) unemployment insurance decision is affirmed. The claimant voluntarily left 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.

---

Jennifer L. Coe  
Administrative Law Judge

---

Decision Dated and Mailed

jlc/mak