

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ALEX J STEWART**  
Claimant

**APPEAL NO. 10A-UI-04120-VS**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ALLSTEEL INC**  
Employer

**Original Claim: 01/31/10  
Claimant: Appellant (2)**

Section 96.5-1 – Voluntary Quit

**STATEMENT OF THE CASE:**

The claimant filed an appeal from a representative's decision dated March 18, 2010, reference 01, which held the claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on April 8, 2010. The claimant participated. Doug Stewart, the claimant's father, was a witness. The employer participated by Tiffany Hartman, member and community relations generalist. The employer was represented by John O'Fallon. The record consists of the testimony of Tiffany Hartman; the testimony of Alex Stewart; and the testimony of Doug Stewart.

**ISSUE:**

Whether the claimant voluntarily quit for good cause attributable to the employer.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony of the witnesses and having considered all of the evidence in the record, makes the following findings of fact:

The employer is an office furniture manufacturer located in Muscatine, Iowa. The claimant worked at the panel plant. He was hired as a full-time welder on May 5, 2008.

On May 5, 2009, the claimant was given a layoff notice. He was going to be laid off as of Monday, May 11, 2009. The claimant had three days left of scheduled work on May 6, 2009; May 7, 2009; and May 8, 2009. The claimant had some "free passes" and sick days that he had accumulated during his employment. He called his supervisor, Marco Calderon, and informed him that he (the claimant) would be using those days and would not be coming to work.

The employer's attendance policy required employees to call 15 minutes prior to the beginning of a shift if he or she was unable to come to work. However, the claimant's supervisor had given out cards asking that employees call him personally rather than use the call in line. When the employer did not receive calls on the call-in line from the claimant on May 6, 2009—May 8, 2009, the claimant was considered a no-call/no-show and was deemed to have voluntarily quit his job in accordance with the employer's written work rule.

**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.

A quit is a separation initiated by the employee. 871 IAC 24.1(113)(b). In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 698, 612 (Iowa 1980) and Peck v. EAB, 492 N.W.2d 438 (Iowa App. 1992). 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. See 871 IAC 24.25.

The evidence in this case established that the claimant did not voluntarily quit his job by failing to call in for three scheduled work days on May 6, 2009; May 7, 2009; and May 8, 2009. These were the claimant's final three days of work before he was to be laid off by the employer. The claimant had what he called "free passes" and sick time and he informed his supervisor on May 5, 2009, that he would be using those days and not coming to work. The claimant knew about the call-in line, but he had been instructed by his supervisor to call him directly rather than use the call-in line.

Since the claimant did notify his employer that he would not be at work on May 6, 2009; May 7, 2009; and May 8, 2009, he was not a no-call/no-show for three consecutive work days. The claimant did not voluntarily quit his job. Benefits are allowed, if the claimant is otherwise eligible.

**DECISION:**

The representative's decision dated March 18, 2010, reference 01, is reversed. Unemployment insurance benefits are allowed, provided the claimant is otherwise eligible.

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Vicki L. Seeck  
Administrative Law Judge

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Decision Dated and Mailed

vls/kjw