

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

JESSE R SARGENT
Claimant

IMON COMMUNICATIONS
Employer

APPEAL NO. 17A-UI-08132-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 07/16/17
Claimant: Appellant (1)**

Iowa Code § 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated August 3, 2017, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on August 28, 2017. Claimant participated. Employer failed to respond to the hearing notice and did not participate.

ISSUE:

The issue in this matter is whether claimant quit for good cause attributable to employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on July 5, 2017. Claimant was terminated by employer on July 12, 2017 after claimant had not shown for work or called in for three consecutive days.

Claimant has battled alcoholism. He received FMLA earlier in 2017 such that he might go through treatment. He completed treatment and returned to work. Claimant knew the process to apply for FMLA, and knew to be in touch with human resources for his absences. Claimant did not know whether he had FMLA still available to him at the time of his discharge.

Claimant relapsed with his alcoholism in June of 2017. Claimant had been in contact with his supervisor shortly after his relapse. Claimant was working after he'd started drinking again. By July 5, 2017 claimant's supervisor was no longer working for employer. Claimant stated that he did not contact anyone in a position of authority to tell of his relapse and his need to be off of work. Claimant stated that although he had not been in touch with anyone in a position of authority for employer, that he had contacted coworkers indicating his difficulties. Claimant additionally stated that he hadn't been in touch with human resources as he was ashamed that he had relapsed.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 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 administrative law judge holds that the evidence has failed to establish that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship by not showing up for work for three days or alerting employer of his absence. Claimant's contacts to coworkers are not sufficient to constitute keeping employer informed of claimant's absences. Claimant knew to be in contact with the human resources department if he wished to pursue the absences under his FMLA leave, but chose not to do so. Claimant also didn't simply give a call to human resources to report that he was too ill to attend work, but he didn't do that either.

DECISION:

The decision of the representative dated August 3, 2017, reference 01, is affirmed. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.

Blair A. Bennett
Administrative Law Judge

Decision Dated and Mailed
bab/scn