

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

AUGUST GREGORY
Claimant

APPEAL NO: 12A-UI-00605-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

AMERICAN ORDNANCE LLC
Employer

OC: 06-26-11
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the January 10, 2012, reference 01, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on February 15, 2012. The claimant participated in the hearing. Chuck Griffin, human resources manager, participated in the hearing on behalf of the employer. Employer's Exhibit One and Claimant's Exhibit A were admitted into evidence.

ISSUE:

The issue is whether the claimant voluntarily left his employment for good cause attributable to the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time senior quality engineer for American Ordnance from July 28, 2011 to December 2, 2011. The claimant acknowledged being incarcerated on a felony charge during scheduled workdays, December 5, 6, and 7, 2011, and not calling the employer to inform it he was in jail. Due to the incarceration, the employer may reasonably consider the absences, reported or unreported, a voluntary leaving of employment without good cause attributable to the employer.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left his employment without good cause attributable to the employer.

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(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.

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code section 96.6(2) (amended 1998). While the administrative law judge understands the claimant did not intend to voluntarily quit his job, Iowa law considers an incarcerated employee to have voluntarily left his employment. The claimant's incarceration on multiple scheduled workdays was not a good-cause reason attributable to the employer for leaving (emphasis added). The employer's attribution of the absences as a voluntary leaving of employment was reasonable, as it is not expected to hold employment for incarcerated employees under Iowa law. Therefore, benefits must be denied.

DECISION:

The January 10, 2012, reference 01, decision is affirmed. The claimant voluntarily left his 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.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/kjw