

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KARL YOUNG
Claimant

APPEAL NO: 10A-UI-07906-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WINNEBAGO INDUSTRIES
Employer

OC: 05/24/10
Claimant: Appellant (1)

Iowa Code section 96.5-1 - Voluntary Quit
871 IAC 24.25(4) - Voluntary Quit Without Good Cause

STATEMENT OF THE CASE:

Karl Young (claimant) appealed an unemployment insurance decision dated May 24, 2010, reference 01, which held that he was not eligible for unemployment insurance benefits because he voluntarily quit his employment with Winnebago Industries (employer) without good cause attributable to the employer. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on July 26, 2010. The claimant participated in the hearing. The employer participated through Lorna Zrostlik, Personnel Recruiter and Colleen Bagley, Personnel Coordinator. Employer's Exhibit One and Claimant's Exhibit A were admitted into evidence. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

The issue is whether the claimant's voluntary separation from employment qualifies him to receive unemployment insurance benefits.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was employed as a full-time laborer from December 14, 2009 through April 20, 2010 when he left early without consulting his supervisor. The claimant called and left a message on Colleen Bagley's telephone voice mail, that his step-father had passed away and he had to go out of town. The claimant was absent the next three days but made no further calls to the employer. Ms. Bagley is not the claimant's supervisor; she is a personnel coordinator who handles workers' compensation issues and absences due to medical reasons. The claimant previously had an accident and called Ms. Bagley due to absences for medical reasons. He testified that Ms. Bagley told him that any time he was absent, he should call her personal work number but Ms. Bagley does not recall making any such statement.

The employer's attendance policy requires all employees to provide official notification of their absences one hour prior to the start of their shift. The employer provides two telephone

numbers, one a toll-free number, that the employee is required to call and calls are to be made each day the employee is going to be absent. The policy further provides that an employee is considered a voluntary quit if he is a no-call/no-show for three consecutive workdays. The claimant signed an acknowledgement and receipt of the employer's handbook containing these policies. The claimant was a no-call/no-show for three days ending on April 23, 2010 and was considered to have voluntarily quit his employment.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the reasons for the claimant's separation from employment qualify him to receive unemployment insurance benefits. The claimant is not qualified to receive unemployment insurance benefits if he voluntarily quit without good cause attributable to the employer. Iowa Code section 96.5-1.

Rule 871 IAC 24.25 provides that, 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. In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980) and Peck v. Employment Appeal Bd., 492 N.W.2d 438 (Iowa Ct. App. 1992). The claimant demonstrated his intent to quit and acted to carry it out by leaving work early on April 20, 2010 and never calling or returning to work after that date.

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 claimant was deemed a voluntary quit on April 23, 2010 after three days of no-call/no-show. It is his burden to prove that the voluntary quit was for a good cause that would not disqualify him. Iowa Code section 96.6-2. He failed to meet that burden and his separation was without good cause attributable to the employer. Benefits are therefore denied.

DECISION:

The unemployment insurance decision dated May 24, 2010, reference 01, is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until he has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/pjs