

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JOSEPH L PORTER
Claimant

APPEAL NO: 12A-UI-11964-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

HOFFMAN INC
Employer

OC: 07/22/12
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit
871 IAC 24.25(4) – No call No show
871 IAC 24.25(16) – Incarceration

STATEMENT OF THE CASE:

The claimant appealed a department decision dated September 26, 2012, reference 03, that held he voluntarily quit without good cause attributable to his employer on March 20, 2012, and benefits are denied. A telephone hearing was held on October 30, 2012. The claimant did not participate. Scott Lee, HR Manager, participated for the employer.

ISSUE:

Whether the claimant voluntarily quit without good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge having heard the testimony of the witness, and having considered the evidence in the record, finds: The claimant began employment on September 18, 2011 and last worked for the employer as full-time construction labor on March 17, 2012. The employer learned claimant became incarcerated and he failed to report for work the following week.

The employer policy is a three-day no-call/no-show to work is a voluntary quit. When claimant was released from jail he contacted the employer on March 26. He was advised he had been terminated as a voluntary quit.

The claimant failed to respond to the hearing notice.

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.

871 IAC 24.25(4), (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:

(4) The claimant was absent for three days without giving notice to employer in violation of company rule.

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

The administrative law judge concludes the claimant voluntarily quit without good cause attributable to his employer due to incarceration on March 20, 2012. An incarceration with a three-day no-call/no-show is considered a voluntary quit without good cause.

DECISION:

The department decision dated September 26, 2012, reference 03, is affirmed. The claimant voluntarily quit without good cause attributable to his employer on March 20, 2012. Benefits are denied until the claimant requalifies by working in and being paid wages for insured work equal to ten times his weekly benefit amount, provided the claimant is otherwise eligible.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/pjs