

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

AMOS T POES

Claimant

APPEAL NO: 12A-UI-10472-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

EYERLY-BALL COMMUNITY MENTAL

Employer

OC: 08/05/12

Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit
871 IAC 24.25(4) – Absent Without Notice

STATEMENT OF THE CASE:

The claimant appealed a department decision dated August 27, 2012, reference 01, that held he voluntarily quit without good cause attributable to his employer on August 3, 2012, and benefits are denied. A telephone hearing was held on October 15, 2012. The claimant participated. Donna Boetger, HR Manager, and April Adams, Residential Director, 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 witnesses, and having considered the evidence in the record, finds: The claimant worked for the employer as a full-time human service employee from January 18, 2011 to July 24, 2012. He was scheduled to work on July 26, but called in sick for that day. The employer posts a work schedule by the 21st day of the month. The vacation request policy is employees must request it by the 15th day of a month for the next month. The employer responds to a vacation request by schedule posting.

Claimant requested vacation for July 27 thru August 6. The employer issued claimant a July work schedule showing he is to work on July 21, July 23, July 24 and July 26 with approved vacation for July 27 – July 31. The employer posted the August work schedule on July 21st that showed claimant is to work on August 1, 2, 4, 6, 7 & 8. Claimant e-mailed the employer on July 25 about his vacation request and it responded that due to staffing needs he was to work according to the posted schedule.

Claimant did not report for work until he telephoned the employer at 1:40 p.m. on August 8. The employer told claimant he was terminated as a voluntary quit for being a no-call/no-show to work for August 1 & 2 according to its policy.

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) 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 concludes the claimant voluntarily quit without good cause attributable to his employer due to job abandonment on August 3, 2012.

The claimant knew when the employer posted his work schedule on July 21 that his vacation request had been limited to July 27 – July 31 and he was scheduled to work on August 1, 2, 4, 6, 7 & 8. This message was confirmed in the employer e-mail response to claimant on July 25. While claimant might have made vacation plans for the period of his request, the employer followed its policy that in effect denied the length of claimant's requested vacation. His decision to take vacation for the extended period is a voluntary termination without good cause.

DECISION:

The department decision dated August 27, 2012, reference 01, is affirmed. The claimant voluntarily quit without good cause due to job abandonment on August 3, 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