

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

JIM C LATTA
Claimant

THE STRUB COMPANY INC
Employer

APPEAL NO. 19A-UI-02160-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 02/10/19
Claimant: Appellant (1)

Iowa Code § 96.5-1 – Voluntary Quit
Iowa Code § 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated March 7, 2019, reference 02, which held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on March 27, 2019. Claimant participated personally. Employer participated by Carl Strub III. Claimant's Exhibit A was admitted.

ISSUE:

Whether claimant quit for good cause attributable to employer?

Whether claimant is able and available for work?

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 January 26, 2019. Employer discharged claimant on February 11, 2019 because claimant was a no-call/no-show for work on January 31, and February 1, 4, 5, and 6, 2019.

Claimant worked as a plumber for employer. Claimant has had issues with depression and had missed a good deal of work during the Fall of 2018. Claimant met with employer in December, 2018 and at that meeting employer expressed to claimant that he could not continue to be a no-call/no-show for work. During the Fall of 2018, claimant did have a medical excuse for many of his absences.

Claimant did not have a medical excuse for his absences in January through February 2019.

Claimant stated that he is now able and available for work, but can no longer physically work as a plumber.

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 being a no-call/no-show for work for more than three days after he'd been specifically informed not to do act in that way.

Ordinarily "good cause" is derived from the facts of each case keeping in mind the public policy stated in Iowa Code Section 96.2. *O'Brien v. EAB* 494 N.W.2d 660, 662 (Iowa 1993) (citing *Wiese v. IA Dept. of Job Serv.*, 389 N.W.2d 676, 680 (Iowa 1986)). "The term encompasses real circumstances, adequate excuses that will bear the test of reason, just grounds for the action, and always the test of good faith." *Wiese v. IA Dept. of Job Serv.*, 389 N.W.2d 676, 680 (Iowa 1986). "Common sense and prudence must be exercised in evaluating all of the circumstances that led to an employee's quit in order to attribute the cause for the termination." *Id.* Claimant's mental health difficulties do not constitute a good cause reason for claimant not to provide medical documentation to employer when he would be absent from work for his issues. His no-call/no-show for work was not for good cause attributable to employer.

DECISION:

The decision of the representative dated March 7, 2019, reference 02, 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