

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DANIEL S SCHNEIDER
Claimant

TITAN TIRE CORPORATION
Employer

APPEAL 17A-UI-09708-CL

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 08/20/17
Claimant: Appellant (1)**

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant filed an appeal from the September 13, 2017, (reference 01) unemployment insurance decision that denied benefits based upon a separation from employment. The parties were properly notified about the hearing. A hearing was held on October 12, 2017, in Des Moines, Iowa. Claimant participated personally and through his brother, Eric Duolo. Employer participated through human resource manager Mike Gerlach.

ISSUE:

Did claimant voluntarily leave the employment with good cause attributable to the employer or did employer discharge the claimant for reasons related to job misconduct sufficient to warrant a denial of benefits?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for employer on June 4, 2004. Claimant last worked as a full-time inspector. Claimant was separated from employment on August 17, 2017, when he voluntarily resigned.

Employer has a policy requiring employees to report an absence at least two hours prior to the start of their shift. Employer also has a policy stating employees will be considered to have voluntarily resigned after three consecutive no-call/no-show absences. Claimant was aware of the policies as employer provides every employee with a copy of the applicable collective bargaining agreement that contains the policies.

The claimant failed to report for work or notify the employer of his absences for three consecutive scheduled workdays on August 15, 16, and 17, 2017, in violation of the employer's policy.

Claimant was feeling ill and was taking pain medication. Claimant did not have a working cell phone. Claimant went to the doctor on Monday, August 14, 2017. A neighbor checked on claimant on Tuesday, August 15, 2017. On Wednesday, August 16, 2017, officers with the Des Moines Police Department went to claimant's home after employer requested a welfare check.

The officers spoke with claimant's cousin and asked him to have claimant contact employer. On Thursday, August 17, 2017, claimant was well enough to drive himself to the doctor.

Claimant was also absent from work on Friday, August 18, 2017, and did not report his absence.

When claimant attempted to return to work on Monday, August 21, 2017, he was informed he was considered to have resigned due to three no-call/no-show absences.

REASONING AND CONCLUSIONS OF LAW:

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

Iowa Code section 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.

In this case, claimant was separated from employment due to three no-call/no-show absences. Although claimant asserts he was unable to report his absences due to issues with his phone, I do not find this credible. Claimant did not make any effort to ask a neighbor to use a telephone or locate a payphone. Claimant was able to drive himself to the doctor on Thursday. He could have asked to use the phone at the doctor's office or even driven to employer's place of business to personally report the reason for his absences. Claimant did not take reasonable steps to notify employer of his absences.

An employer is entitled to expect its employees to report to work as scheduled or to be notified when and why the employee is unable to report to work. Inasmuch as the claimant failed to report for work or notify the employer for three consecutive workdays in violation of the employer policy, the claimant is considered to have voluntarily left employment without good cause attributable to the employer.

DECISION:

The September 13, 2017 (reference 01) decision is affirmed. The claimant voluntarily left 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.

Christine A. Louis
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Decision Dated and Mailed

cal/rvs