

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RICHARD R BACKSTROM
Claimant

APPEAL NO. 13A-UI-00854-VST

**ADMINISTRATIVE LAW JUDGE
DECISION**

EAST PENN MANUFACTURING CO INC
Employer

**OC: 12/16/12
Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

The claimant filed an appeal from the representative's decision dated January 11, 2013, reference 01, which held that the claimant was not eligible for unemployment insurance benefits. After due notice was issued, a hearing was held by telephone conference call on February 21, 2013. The claimant participated personally. The employer participated by Darrell Cook, manager of administration and support services. The record consists of the testimony of Richard Backstrom and the testimony of Darrell Cook.

ISSUE:

Whether the claimant voluntarily left for good cause attributable to the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge makes the following findings of fact:

The employer manufactures electric storage batteries at its facility in Corydon, Iowa. The claimant was hired on August 8, 2011, as a full-time machine operator. His last day of work was December 3, 2012. The claimant was then arrested on December 3, 2012, and was incarcerated for two weeks. The claimant called the employer while he was in jail on December 3, 2012. The claimant did not have sufficient time to cover his absence from work. The employment relationship ended on December 9, 2012. Work was available for the claimant had he come to work.

REASONING AND CONCLUSIONS OF LAW:

871 IAC 24.25(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:

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

The claimant is not eligible for unemployment insurance benefits. Iowa law is clear that if a claimant is incarcerated he or she is considered to have voluntarily quit work without good cause attributable to the employer. No benefits can be awarded to the claimant.

DECISION:

The unemployment insurance decision dated January 11, 2013, reference 01, is affirmed. Unemployment insurance benefits shall be withheld until the claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefits amount, provided the claimant is otherwise eligible.

Vicki L. Seeck
Administrative Law Judge

Decision Dated and Mailed

vls/pjs