

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**RICARDOS D ALEXANDER**  
Claimant

**APPEAL NO. 11A-UI-13662-VST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**PREMIER CASTING SERVICES**  
Employer

**OC: 04/25/10  
Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Quit

**STATEMENT OF THE CASE:**

The claimant filed an appeal from a representative's decision dated October 6, 2011, reference 04, which held the claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on December 6, 2011. The claimant participated. The employer participated by Tami Fuller, office manager. The record consists of the testimony of Ricardos Alexander and the testimony of Tami Fuller.

**ISSUE:**

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

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony of the witnesses and having considered all of the evidence in the record, makes the following findings of fact:

The employer does chipping and grinding. The claimant was hired on July 7, 2011. He was a full-time employee. His last day of work was August 24, 2011. The claimant was terminated after three days of no-call/no-show on August 30, 2011; August 31, 2011; and September 1, 2011. The employer has a written policy that termination results if there is a failure to call and come to work for three consecutive days. Work was available had the claimant elected to come to work.

**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.

A quit is a separation initiated by the employee. 871 IAC 24.1(113)(b). In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 698, 612 (Iowa 1980) and Peck v. EAB, 492 N.W.2d 438 (Iowa App. 1992). 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. See 871 IAC 24.25.

The credible evidence in this case established that the claimant was a no-call/no-show for three consecutive work days on August 30, 2011; August 31, 2011; and September 1, 2011. Although the claimant said he called in, he could not say when he called in. He thought his last day of calling in was a Saturday. He was scheduled for work on August 27, 2011, and if he did call in for the final time on August 27, 2011, he had four days of no-call/no-show. The claimant said he was having problems with his hands but could not get treatment, because he had no insurance. This testimony makes no sense, because the employer would have referred him to an occupational medicine clinic had he reported any further troubles after his initial complaint in early August 2011. The most reasonable inference from the evidence is that the claimant abandoned his job for reasons best known to him. There is no credible evidence that he quit for good cause attributable to the employer. Benefits are denied.

**DECISION:**

The representative's decision dated October 6, 2011, reference 04, 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 his weekly benefit amount, provided he is otherwise eligible.

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Vicki L. Seeck  
Administrative Law Judge

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Decision Dated and Mailed

vls/kjw