

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TYLER J RICHARDSON
Claimant

APPEAL NO. 10A-UI-04515-LT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WINNEBAGO INDUSTRIES
Employer

OC: 02/28/10
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the March 19, 2010 (reference 01) decision that denied benefits. After due notice was issued, a telephone conference hearing was held on May 5, 2010. Claimant participated. Employer participated through supervisor of the framing department Keith Albertson and Lorna Zrostlik. Employer's Exhibits 1 and 2 were admitted to the record.

ISSUE:

The issue is whether claimant voluntarily left the employment with good cause attributable to the employer.

FINDINGS OF FACT:

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: Claimant most recently worked full-time as a wood framer and was separated from employment on February 25, 2010. He quit because he thought he would be fired if he missed any more work after a counseling meeting with Albertson on February 8, 2010 about attendance issues related to weather, car problems and not feeling well. He missed work most recently on February 17 (personal reasons but not ill), February 23 (tardy), February 25 (sick), and February 26 (he did not report in the morning because he knew he was going to be suspended). Employer suspended him for a half-day on February 26, a full-day on March 1, and half day on March 2, directing him to return to work at 11:30 a.m on March 2. He failed to return to work after the suspension when continued work was available. It is normal protocol to ask for a suspended employee's identification, which they pick up from the guard shack when they return from the suspension. Albertson did tell claimant he would likely be fired for any additional absences for the remainder of the calendar year but did not tell him to quit, that he was fired, or not to return from the suspension.

REASONING AND CONCLUSIONS OF LAW:

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

Iowa Code § 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(28) 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 § 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 § 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:

(28) The claimant left after being reprimanded.

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). Claimant's decision not to return to work after a disciplinary suspension, when continued work was available, was not a good-cause reason attributable to the employer for leaving the employment. Benefits are denied.

DECISION:

The March 19, 2010 (reference 01) decision is affirmed. The claimant voluntarily left his 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.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/pjs