

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JASSIM KANDAH**  
Claimant

**APPEAL NO: 11A-UI-11637-E**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ABM LTD**  
Employer

**OC: 08-07-11**  
**Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Leaving

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the August 30, 2011, reference 01, decision that denied benefits. After due notice was issued, a hearing was held in Des Moines, Iowa, before Administrative Law Judge Julie Elder on November 28, 2011. The claimant participated in the hearing with Interpreter Hatimn Yousif. Gregg Stearns, human resources manager, participated in the hearing on behalf of the employer.

**ISSUE:**

The issue is whether the claimant voluntarily left his employment.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time janitor for ABM Ltd. from October 19, 2010 to August 25, 2011. On February 3, 2011, the claimant suffered a work-related injury to his back and shortly thereafter was placed on light-duty work. On August 3, 2011, he asked his area manager if he could take one month off without pay and was told he could not take one month but could take two weeks. On August 8, 2011, the claimant was a no-call, no-show. On August 9, 2011, the claimant had his final appointment with his work comp physician and was released to full duty without restriction. The claimant went into the office and again requested one month off without pay and the employer stated he would look into it and get back to the claimant. On August 10, 2011, the claimant, the area manager, and Human Resources Manager Gregg Stearns met and the claimant was told the employer could not give him one month off and the claimant asked if he could be transferred from West Des Moines to downtown Des Moines. The employer stated he could not be transferred immediately but it would transfer him as soon as it could and if he wanted to take one month off, he could quit and reapply. The claimant agreed to let the employer know his decision by August 12, 2011. On August 12, 2011, the claimant came in with a note from his personal physician excusing him from work for one week. The note did not say why he was being excused or provide any information besides taking him off work for one week. Mr. Stearns attempted to call the claimant August 16 and 17, 2011, and left him messages asking him to call the employer back immediately because it had questions about his doctor's note. The claimant was due to return to work August 19, 2011, per his doctor's note,

but did not call or show up for work. The employer sent the claimant a certified letter August 19, 2011, asking him to contact the employer immediately, but he did not call the employer or report for work August 22, 23, or 24, 2011, and the employer determined he voluntarily quit his job August 25, 2011. Consequently, the employer sent the claimant another certified letter August 25, 2011, stating it assumed he voluntarily quit because he had not contacted the employer since August 12, 2011. The claimant signed for the letter September 4, 2011, but did not contact the employer to state its assumption was incorrect. The employer had continuing work available had the claimant reported for work August 19, 2011, or provided further medical documentation of his need to be absent.

## **REASONING AND CONCLUSIONS OF LAW:**

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

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.

Inasmuch as the claimant failed to report for work or notify the employer for three consecutive workdays in violation of the employer's policy, he is considered to have voluntarily left employment without good cause attributable to the employer. The claimant's absences were excused from August 12, 2011, until August 19, 2011, but he failed to return to work after receiving a note, without any relevant information besides those dates, from his own physician, after being released to return to full duty by the work comp doctor and asking for one month off. The claimant never reported for work or contacted the employer again after August 12, 2011. Therefore, benefits must be denied.

**DECISION:**

The August 30, 2011, 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.

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Julie Elder  
Administrative Law Judge

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Decision Dated and Mailed

je/kjw