

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**RONALD GIBSON**  
Claimant

**APPEAL NO. 08A-UI-04323-MT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**PALMER HOLDINGS  
AND INVESTMENTS INC**  
Employer

**OC: 03/30/08 R: 02  
Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Quit

**STATEMENT OF THE CASE:**

Claimant filed an appeal from a decision of a representative dated May 1, 2008, reference 02, which held claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on May 20, 2008. Employer participated by Jen Schroeder, Vice President Administration. Claimant responded to the hearing notice and did not participate as he was not available at the number provided.

Claimant called after the hearing was over to request participation. Claimant asserts that he did not get notice of the hearing. The Appeals Bureau records indicate that claimant had called in his telephone number as shown by control number 074. Claimant was called two times at the time set for his hearing and did not answer. There is no evidence to show that claimant did not receive adequate notice of the hearing. Claimant's failure to participate was due to a failure to read and follow instructions on the hearing notice by being available at the number provided.

**ISSUE:**

The issue in this matter is whether claimant quit for good cause attributable to employer.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on July 20, 2007. Claimant quit work because he was incarcerated. Claimant never came back to ask for his job back once released.

**REASONING AND CONCLUSIONS OF LAW:**

The administrative law judge holds that the evidence has failed to establish that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship because he was incarcerated. This is not good cause attributable to employer for a quit. Benefits withheld.

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(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.

871 IAC 26.14(7) provides:

(7) If a party has not responded to a notice of telephone hearing by providing the appeals section with the names and telephone numbers of its witnesses by the scheduled time of the hearing, the presiding officer may proceed with the hearing.

a. If an absent party responds to the hearing notice while the hearing is in progress, the presiding officer shall pause to admit the party, summarize the hearing to that point, administer the oath, and resume the hearing.

b. If a party responds to the notice of hearing after the record has been closed and any party which has participated is no longer on the telephone line, the presiding officer shall not take the evidence of the late party. Instead, the presiding officer shall inquire as to why the party was late in responding to the notice of hearing. For good cause shown, the presiding officer shall reopen the record and cause further notice of hearing to be issued to all parties of record. The record shall not be reopened if the presiding officer does not find good cause for the party's late response to the notice of hearing.

c. Failure to read or follow the instructions on the notice of hearing shall not constitute good cause for reopening the record.

At issue is a request to reopen the record made after the hearing had concluded. The request to reopen the record is denied because the party making the request failed to participate by reading and following the instructions on the hearing notice.

**DECISION:**

The decision of the representative dated May 1, 2008, reference 02, is affirmed. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for

insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible. Claimant's request to reopen the record is denied.

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Marlon Mormann  
Administrative Law Judge

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Decision Dated and Mailed

mdm/css