

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**WADE BASTMAN**

Claimant

**APPEAL NO. 09A-UI-00477-ET**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**KRUSE'S NATURAL STONE OF TILE INC**

Employer

**OC: 11-02-08 R: 01  
Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Leaving

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the January 8, 2009, reference 02, decision that denied benefits to the claimant. After due notice was issued, a telephone hearing was held before Administrative Law Judge Julie Elder on January 28, 2009. The claimant participated in the hearing. Stacy Kruse, President, participated in the hearing on behalf of the employer.

**ISSUE:**

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

**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 granite fabricator for Kruse's Natural Stone of Tile from September 2006 to December 10, 2008. The claimant was starting his own business and the employer had been told he was soliciting her clients. On December 5, 2008, she met with him in the morning and asked him to take that day off while she considered the situation and said she would talk to him on Monday, fully expecting he would report for work Monday, December 8, 2008. The claimant believed he was suspended indefinitely and the employer would call him with her decision December 8, 2008. He did not call or show up for work December 8, 9 or 10, 2008, and the employer considered him to have voluntarily quit his employment. The employer never told him that his employment was terminated and not to return to work on Monday and it did have continuing work available for him.

**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.

Where an individual mistakenly believes that he was discharged and discontinues coming to work (but was never told he was discharged), the separation is a voluntary quit without cause attributable to the employer. LaGrange v IDJS, (Unpublished, Iowa App. 1984). The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code section 96.6-2. In this case the claimant was sent home, but not told he was suspended, December 5, 2008, and failed to return December 8, 2008, to discuss the situation. The employer expected him to return to work December 8, 2008, but the claimant was a no-call/no-show December 8, 9 and 10, 2008. The employer never told the claimant his employment was terminated and did not intend to discharge him. Under these circumstances, the administrative law judge must conclude that the claimant assumed he was discharged and discontinued coming to work. Consequently, he has not demonstrated that his leaving was for good cause attributable to the employer. Therefore, benefits must be denied.

**DECISION:**

The January 8, 2009, reference 02, 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/css