

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KEVIN TRIBBY
Claimant

APPEAL NO. 10A-UI-05715-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

HY-VEE INC
Employer

OC: 03/14/10
Claimant: Appellant (1)

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated April 5, 2010, reference 01, that concluded he voluntarily quit employment without good cause attributable to the employer. A telephone hearing was held on June 7, 2010. The parties were properly notified about the hearing. The claimant participated in the hearing. Daniel Speir participated in the hearing on behalf of the employer with a witness, Scott Gilbert.

ISSUE:

Did the claimant voluntarily quit employment without good cause attributable to the employer?

FINDINGS OF FACT:

The claimant worked full time for the employer as a kitchen manager from February 17, 1988, to December 28, 2009. The claimant was informed and understood that under the employer's work rules, employees were required to notify their supervisor if they were not able to work as scheduled.

After December 28, 2009, the claimant stopped reporting to work and failed to notify the employer that he would not be reporting to work. He was experiencing mental health issues and was under a doctor's care. The claimant's therapist had provided the employer with a statement excusing the claimant from working through January 11. The statement released the claimant to return to work after January 11. The claimant was scheduled to work from January 12 to 15, 2010. When he did not report to work or notify the employer about his job status, the claimant considered him to have voluntarily quit employment.

Despite the release to return to work, the claimant did not believe he was capable of working due to his mental health issues. He has not provided a medical release showing that he has fully recovered or offered to return to work after obtaining such a release.

REASONING AND CONCLUSIONS OF LAW:

The unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer. Iowa Code section 96.5-1. The evidence establishes the claimant voluntarily quit his employment by failing to report to work and failing to notify the employer as required about his absences.

The unemployment insurance law provides that individual is qualified to receive benefits if he: (1) left employment because of illness, injury or pregnancy with the advice of a licensed and practicing physician, (2) notified the employer that he needed to be absent because of the illness or injury, and (3) offered to return to work for the employer when recovery was certified by a licensed and practicing physician, but his regular work or comparable suitable work was not available. Iowa Code section 96.5-1-d. The claimant has not satisfied the conditions for eligibility under Iowa Code section 96.5-1-d. First, he did not notify the employer that he needed to be absent because of the illness. Second, he has not presented proof from a licensed and practicing physician that he has fully recovered or offered to return to work after being certified as fully recovering.

DECISION:

The unemployment insurance decision dated April 5, 2010, reference 01, is affirmed. The claimant is disqualified from receiving unemployment insurance benefits until he has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/pjs