

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

OMAR J ORTEGA
Claimant

WINNEBAGO INDUSTRIES
Employer

APPEAL NO. 19A-UI-00208-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 05/20/18
Claimant: Appellant (1)

Iowa Code § 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated January 7, 2019, reference 02, which held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on January 24, 2019. Claimant participated. Employer participated by Susan Gardner.

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 December 13, 2018. Claimant did not show up for work after that date as he'd hit a deer with his car and was unable to afford to get the car fixed. Absent the working vehicle, claimant had no transportation to get him to work.

Employer stated that claimant called off work on December 17-19, 2018 citing personal reasons. Employer stated that claimant did not call in to work after that date. Claimant stated that after that date he hadn't called in to the normal line he'd used previously, but instead called a human resources officer directly and told him of his transportation problems. Claimant was unsure of the particular dates of his calls to the human resources officer and whether they preceded his termination.

After employer had not heard for claimant for three working days, employer found that claimant had voluntarily quit his job, as according to company policy.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 96.5-1 provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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.

Iowa Admin. Code r. 871-24.25(1) 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:

(1) The claimant's lack of transportation to the work site unless the employer had agreed to furnish transportation.

Iowa Admin. Code r. 871-24.25(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.

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 did not have adequate transportation to drive to work.

Claimant voluntarily quit work by not showing up or calling into work for three consecutive days. Even if the administrative law judge did not find this to be the case, claimant would still not be eligible for unemployment benefits as claimant did not show up for work for an extended period of time because his car was damaged. As lack of transportation is not considered a good cause for a voluntary quit, claimant's quit is disqualifying for the receipt of unemployment benefits.

DECISION:

The decision of the representative dated January 7, 2019, 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.

Blair A. Bennett
Administrative Law Judge

Decision Dated and Mailed

bab/scn