

IOWA WORKFORCE DEVELOPMENT  
Unemployment Insurance Appeals Section  
1000 East Grand—Des Moines, Iowa 50319  
DECISION OF THE ADMINISTRATIVE LAW JUDGE  
68-0157 (7-97) – 3091078 - EI

PATRICK G ANDREWS  
1434 VANDENBERG CR  
SERGEANT BLUFF IA 51054

STATE OF IOWA CIVIL COMMITMENT  
UNIT FOR SEXUAL OFFENDERS  
c/o TALX UCM SERVICES INC  
PO BOX 283  
ST LOUIS MO 63166-0283

Appeal Number: 04A-UI-10760-BT  
OC: 09/12 R: 01  
Claimant: Appellant (1)

**This Decision Shall Become Final**, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4<sup>th</sup> Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

---

(Administrative Law Judge)

---

(Decision Dated & Mailed)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Patrick Andrews (claimant) appealed an unemployment insurance decision dated September 30, 2004, reference 01, which held that he was not eligible for unemployment insurance benefits because he voluntarily quit his employment with the State of Iowa Civil Commitment Unit for Sexual Offenders. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on October 27, 2004. The claimant participated in the hearing with his wife Annette Andrews. The employer participated through Mary Ann Hanson, Ruby Dickey, Brad Whittrock and Connie Hickerson as the employer representative. Employer's Exhibits One through Four and Claimant's Exhibits A and B were admitted into evidence.

#### FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was employed as a full-time psychiatric security specialist working with patients on the psychiatric ward from December 1, 2003 through July 30, 2004. He was considered to have voluntarily abandoned his job when he failed to call or report to work on and after July 12, 2004 when his physician released him to return to work. The claimant was unable to definitely say when he may have called the employer but it was only a couple of times after that date. The employer sent the claimant a letter on July 16, 2004, which advised him the employer would have to consider him a voluntary quit due to numerous no-call/no-show if he was unable to provide a medical excuse for the days missed. The claimant and his wife did not sign for the letter until July 30, 2004. After receiving it, the claimant sent the employer a letter but had no additional medical excuses to provide. The employer sent a subsequent letter informing the claimant he was considered to have abandoned his job.

#### REASONING AND CONCLUSIONS OF LAW:

The issue is whether the reasons for the claimant's separation from employment qualify him to receive unemployment insurance benefits. The claimant is not qualified to receive unemployment insurance benefits if he voluntarily quit without good cause attributable to the employer or if the employer discharged him for work-connected misconduct. Iowa Code Sections 96.5-1 and 96.5-2-a.

A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980). The claimant demonstrated his intent to quit and acted to carry it out when he failed to consistently call or report to work after July 12, 2004. He received a copy of the employer's work rules and knew he was required to report his absences if he was not going to be at work. The claimant further acknowledged receipt of the policy that would consider him to have voluntarily quit his employment if he was absent for three consecutive days without calling or reporting to work.

The claimant was unable to provide specific information as to the few dates he spoke with the employer in July 2004, since he had problems remembering the dates. The employer provided evidence that the claimant did not work from June 27, 2004 through July 30, 2004. The employer did have medical documentation releasing the claimant to return to work as of July 12, 2004, but he did not call or report to work on that date. The employer subsequently sent the claimant a certified letter dated July 16, 2004, informing him that he was considered to have voluntarily quit his employment due to no-call/no-shows. However, the employer gave the claimant an opportunity to present a medical excuse for the days missed. The claimant and his wife did not sign for the letter until July 30, 2004 even though the postman had tried to deliver the letter repeatedly after July 16, 2004. Even after receiving the letter, the claimant did not provide an updated medical excuse to the employer, nor did he provide at the hearing any medical documentation excusing his absences.

The claimant had an obligation to contact the employer on a daily basis to report that he was not going to be at work due to illness unless he had medical documentation from a physician excusing him from work. His explanations for not calling the employer are not excused. He states he could not call the employer because he was under heavy medication. His wife told

the employer he could not call because he had diarrhea. And contrary to this, the employer had reliable information that the claimant was applying for a job and requesting an interview during this same time frame. The claimant has failed to establish that his voluntary separation from the employer was with good cause attributable to the employer. Benefits are denied.

DECISION:

The unemployment insurance decision dated September 30, 2004, reference 01, is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until he has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount provided he is otherwise eligible.

sdb/kjf