

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ARIEN Q MCFULSON**  
Claimant

**APPEAL NO. 17A-UI-01705-TNT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**RIVERSIDE STAFFING SERVICES INC**  
Employer

**OC: 01/15/17**  
**Claimant: Appellant (1)**

Iowa Code § 96.5(1)a – Voluntary Quit/Failure to Report/Notify Employer three Consecutive Days

**STATEMENT OF THE CASE:**

The claimant filed an appeal from a representative's decision dated February 9, 2017, reference 01, which denied unemployment insurance benefits, finding that the claimant voluntarily quit work on December 22, 2016, by failing to report to work for three days in a row and not notifying the employer of the reason. After due notice was provided, a telephone hearing was held on March 8, 2017. The claimant participated after calling in and registering his telephone number late. The employer participated by Ms. Karrie Minch, Senior Recruiter.

**ISSUE:**

The issue is whether the claimant left employment by failing to report or notify the employer for three consecutive work days in violation of company policy.

**FINDINGS OF FACT:**

Having considered all of the evidence in the record, the administrative law judge finds: Arien McFulson began employment with Riverside Staffing Services, Inc. on September 30, 2015. Mr. McFulson was most recently assigned to work at the Grupo Company on an assignment that began on December 8, 2016 and ended on December 12, 2016, when the assignment temporarily ended. Mr. McFulson worked as a general laborer and was paid by the hour. His contact person with Riverside Staffing Services, Inc. was "Lacy".

On Friday, December 16, 2016, the claimant was contacted by Riverside Staffing Services, Inc. and offered an assignment at the Grupo Company that was to begin the following Monday morning, December 19, 2016. Mr. McFulson accepted the assignment and the client company was informed that the claimant would fill the job position at the Grupo work location.

On the morning of December 19, 2016, the client called Riverside Staffing to inform the temporary service that Mr. McFulson had not reported for work and they had received no notice of his absence from the claimant. Mr. McFulson had not called in to Riverside Staffing that morning and he did not report or notify the company for three consecutive days. Riverside Staffing next heard from Mr. McFulson later on Wednesday, December 22, 2016, when he called stating that he was "in Chicago". The claimant had not reported for scheduled work for

three consecutive days and had not provided notification to his employer of his impending absences as required by company policy. Under company policy, he was considered to have voluntarily quit his employment.

The claimant asserts that he notified the temporary employment service at 4:20 a.m. on December 19, 2016, that he would not be able to report to the assignment that day because of car trouble and that when he next contacted the company on December 22, 2016, he inquired about additional assignments but there were none.

### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes that claimant voluntarily left employment without good cause attributable to the employer.

Iowa Code § 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.

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 employer is entitled to expect employees to report to work as scheduled or be notified when and why the employee is unable to report to work. Inasmuch as the claimant failed to report for work or notify the employer for three consecutive work days in violation of the employer's policy, the claimant is considered to have voluntarily left employment without good cause attributable to the employer.

In this case, the testimony is disputed. The employer's witnesses testified with specificity regarding the circumstance surrounding the claimant's separation from employment. The administrative law judge finds the employer's witness to be credible and finds that her testimony is not inherently improbable. In this case, although Mr. McFulson also testified with specificity, the administrative file reflects the claimant's testimony as to his actions and the dates they occurred are inconsistent about his job separation. The administrative law judge therefore, places more weight on the testimony of Ms. Minch in this matter. Because the claimant failed to report for three or more consecutive days without notifying his employer, in violation of company policy, he is considered to have quit without good cause attributable to the employer.

Accordingly, benefits are withheld until the claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount and he is otherwise eligible.

**DECISION:**

The representative's decision dated February 9, 2017, reference 01, is affirmed. Claimant left employment when he failed to report for scheduled work and failed to provide notification to the employer for three consecutive work days in violation of company policy. Claimant is disqualified for unemployment insurance benefits until he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount and is otherwise eligible.

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Terry Nice  
Administrative Law Judge

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Decision Dated and Mailed

rvs/rvs