

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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**WALEED M AL ZUHEIRI**  
Claimant

**FAWN MANUFACTURING INC**  
Employer

**APPEAL 15A-UI-09026-JCT**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 07/19/15**  
**Claimant: Appellant (1)**

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Iowa Code § 96.5(1) – Voluntary Quitting

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the August 5, 2015, (reference 01) unemployment insurance decision that denied benefits based upon separation. The parties were properly notified about the hearing. A telephone hearing was held on August 31, 2015. The claimant participated personally through interpreters, Salar Kider and Rola Faraj. Atheer Thamer testified for the claimant. The claimant did not make arrangements prior to the hearing to have Steve Marshino testify, or provide a written statement in lieu of appearance for him. Three attempts were made to reach Mr. Marshino for the hearing, but were unsuccessful. The employer participated through Lisa Merten. Claimant Exhibit One was admitted into evidence.

**ISSUE:**

Did the claimant voluntarily quit the 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 full-time as a turret press set up and operator and was separated from employment on July 10, 2015.

The claimant had a worker's compensation injury in March 2015. As a result, he was given restrictions from his worker's compensation doctor that included no squatting, kneeling or ladders. The employer accommodated the restrictions. The claimant then visited his personal doctor, who added the restrictions of the claimant not working more than eight-hour shifts, or working in hot conditions.

On June 23, 2015, the claimant requested short-term disability. The claimant was provided through the employer the short-term disability paperwork, which was forwarded to their vendor, but also paperwork for an FMLA leave and leave of absence. The claimant never returned the paperwork for the FMLA or leave of absence. The claimant was provided 15 days to return the documentation.

During the 15 days' period, the employer reported that Mr. Marshino inquired about the status of the claimant, inquiring as to whether he had submitted his paperwork. Mr. Marshino did not attend the hearing or provide a written statement. The claimant did not make any further arrangements with the employer about a return to work date, nor did he seek the care of a specialist, as his personal physician recommended on June 29, 2015. The claimant also did not inform the employer that he expected to be provided access to a specialist after his June 29, 2015 appointment. Historically, the claimant had requested from the employer a second opinion in February 2015, and it was granted. However, at the end of the claimant's employment, he did not request the employer to arrange for him to see a specialist, did not make plans independently to see one, and did not return to work. The claimant was expected to return to work, or alternately, provide additional supporting documentation to support his absences. When he no-call/no-showed for three consecutive days, on July 8, 9, and 10, the claimant was deemed to have abandoned his job, and separation occurred.

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

For the reasons that follow, the administrative law judge concludes the claimant's separation from the employment was 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(20), (27) and (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 § 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 § 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:

(20) The claimant left for compelling personal reasons; however, the period of absence exceeded ten working days.

(27) The claimant left rather than perform the assigned work as instructed.

(4) The claimant was absent for three days without giving notice to employer in violation of company rule.

In this case, the claimant sustained a work-related injury. The claimant was released to return to work with restrictions from the worker's compensation doctor, but sought additional advice from his personal physician, who added restrictions. The claimant then requested a leave of absence, which was granted, with the understanding that the claimant complete the necessary documentation within 15 days. The claimant did not return all of the required forms, nor did he communicate with his employer that his personal physician, whom he visited while on the leave

of absence, recommended he visit a specialist. Instead, the claimant neither visited a specialist nor communicated with the employer. At the end of the 15 days, the claimant did not return the paperwork or make contact with the employer, and had three consecutive no-call/no-shows.

An employer is entitled to expect its employees to report to work as scheduled or to be notified when and why the employee is unable to report to work. Inasmuch as the claimant failed to return the requested paperwork, communicate with the employer his need or expectation to see a specialist at the employer's expense, or alternately report for work or notify the employer for three consecutive workdays in violation of the employer policy, the claimant is considered to have abandoned his job. Benefits are denied.

**DECISION:**

The August 5, 2015, (reference 01) unemployment insurance decision is affirmed. The claimant voluntarily left the 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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Jennifer L. Coe  
Administrative Law Judge

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Decision Dated and Mailed

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