

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**NATHAN D BRIGHAM**  
Claimant

**APPEAL NO: 11A-UI-10752-ST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**TWIN COUNTY DAIRY INC**  
Employer

**OC: 07/17/11  
Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Quit  
871 IAC 24.25(26) – Incarceration

**STATEMENT OF THE CASE:**

The claimant appealed a department decision dated August 8, 2011, reference 01, that held he voluntarily quit without good cause attributable to his employer on July 5, 2011, and benefits are denied. A telephone hearing was held on September 8, 2011. The claimant participated. Steve Neuzil, Manager, participated for the employer. Employer Exhibit One was received as evidence.

**ISSUE:**

Whether the claimant voluntarily quit without good cause attributable to the employer.

**FINDINGS OF FACT:**

The administrative law judge having heard the testimony of the witnesses, and having considered the evidence in the record, finds: The claimant began work for the employer on September 2, 2010, and last worked as a full-time production worker on June 29, 2011. The claimant was arrested and became incarcerated on July 1. He contacted the employer on July 1 to report his incarceration. He remained incarcerated until his release on the evening of July 7. He missed scheduled work for July 1, 2, 4 & July 5. After his release, claimant contacted the employer about his job and was informed he was discharged for excessive absenteeism.

**REASONING AND CONCLUSIONS OF LAW:**

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.

871 IAC 24.25(16) 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:

(16) The claimant is deemed to have left if such claimant becomes incarcerated.

The administrative law judge concludes the claimant voluntarily quit without good cause attributable to his employer due to incarceration on July 1, 2011.

The employment separation began when claimant failed to report for scheduled work on July 1 due to his arrest/incarceration, and it continued thru his release to the evening of July 7. This employment separation is considered as a voluntary quit without good cause pursuant to a department rule. In effect, the claimant quit due to his incarceration that pre-dates the employer notifying him that he was discharged.

**DECISION:**

The department decision dated August 8, 2011, reference 01, is affirmed. The claimant voluntarily quit without good cause attributable to his employer on July 1, 2011. Benefits are denied until the claimant requalifies by working in and being paid wages for insured work equal to ten times his weekly benefit amount, provided the claimant is otherwise eligible.

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Randy L. Stephenson  
Administrative Law Judge

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Decision Dated and Mailed

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