

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

SID C HARRIS
Claimant

FOUR OAKS FAMILY AND CHILDREN SVC
Employer

APPEAL 19A-UI-02527-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 02/17/19
Claimant: Appellant (1)**

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant filed an appeal from the March 20, 2019, (reference 02), decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on April 29, 2019. Claimant participated. Employer participated through Stephanie Antonelli, Human Resources Generalist; Myquawn Baily, Program Manager; Marissa Trevino, Shift Leader and was represented by Regina Porter of Equifax.

ISSUE:

Did the claimant voluntarily quit his employment without good cause attributable to his employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was hired to work full time on November 7, 2016 and then voluntarily chose to go to part-time. He was considered to have voluntarily quit his employment when he was a three day no-call/no-show for work on February 19, February 21, and February 24.

Claimant knew that under the employer's policy a three day no-call/no-show would be considered job abandonment and his employment would end. The claimant was required to report his absences to Mr. Bailey who was his direct supervisor, not to a shift leader. Ms. Trevino was a shift leader, not a shift supervisor. She had no authority to approve any employee's absences from work. Ms. Trevino did not work on February 19 so there is no way that the claimant could have called her to tell her that he was not going to be at work on February 19.

Claimant had been missing so much work that Mr. Bailey was sending him reminder texts to be at work on days he was scheduled to work. Claimant was to work on February 19, 2019 at 5:00 p.m. At 10:21 a.m. Mr. Baily sent the claimant a text message telling him he was really needed at work that day. Claimant did not respond to Mr. Bailey's text message. Claimant did not appear for his work shift at 5:00 p.m. Claimant was a no-call/no-show for his next two work

shifts on February 21 and February 24. After claimant was a three day no-call/no-show he was sent a letter on February 26 telling him that he was considered to have abandoned his job.

Sometime in early March the claimant stopped into work to return a key had borrowed from another employee. When he stopped to drop off the key to Ms. Trevino she did not know claimant's employment had ended. She thought he was just returning a key he had been lent by another employee. After dropping off the key the claimant checked his post office box and picked up the letter that had been mailed to him telling him he was considered to have abandoned his job by being a three day no-call/no-show.

The claimant then sought out Mr. Bailey to talk to him. Mr. Bailey explained that claimant had violated the policies and he was considered to have abandoned his job. Claimant admitted to Mr. Bailey that he had "dropped the ball" by not responding to his text messages.

Claimant has not requalified for benefits by earning ten times his weekly benefit amount since his separation from this employer. While the claimant was working for this employer part-time when his employment ended; he is not monetarily eligible for benefits on a claim with an effective date of February 17, 2019 if wages earned from this employer are removed from his claim.

REASONING AND CONCLUSIONS OF LAW:

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

Iowa Code section 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(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.

It is the duty of the administrative law judge as the trier of fact in this case, to determine the credibility of witnesses, weigh the evidence and decide the facts in issue. *Arndt v. City of LeClaire*, 728 N.W.2d 389, 394-395 (Iowa 2007). The administrative law judge may believe all, part or none of any witness's testimony. *State v. Holtz*, 548 N.W.2d 162, 163 (Iowa Ct. App.

1996). In assessing the credibility of witnesses, the administrative law judge should consider the evidence using his or her own observations, common sense and experience. *State v. Holtz*, Id. In determining the facts, and deciding what testimony to believe, the fact finder may consider the following factors: whether the testimony is reasonable and consistent with other believable evidence; whether a witness has made inconsistent statements; the witness's appearance, conduct, age, intelligence, memory and knowledge of the facts; and the witness's interest in the trial, their motive, candor, bias and prejudice. *State v. Holtz*, Id.

The claimant's testimony is less believable than that of Mr. Bailey and Ms. Trevino. There is no way the claimant could have called Ms. Trevino on February 19 to tell her he was leaving town because she did not work that day. Mr. Bailey sent the claimant a text message in the morning asking him to come to work. The claimant could have responded to that message and contacted his direct supervisor as he knew he was obligated to do so. Claimant simply left work without notifying his employer of his absences for three consecutive work shifts. Inasmuch as the claimant failed to report for work or notify the employer for three consecutive workdays in violation of the employer policy, the claimant is considered to have voluntarily left employment without good cause attributable to the employer. Benefits are denied.

DECISION:

The March 20, 2019, (reference 02), decision is affirmed. The claimant voluntarily left 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.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/rvs