

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LYNNEILN N FUNDERBURK
Claimant

APPEAL NO. 15A-UI-04846-TN-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

WESTAR FOODS INC
Employer

OC: 03/22/15
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed a timely appeal from a representative's decision dated April 16, 2015, reference 01, which denied unemployment insurance benefits finding the claimant voluntarily quit employment without a good cause attributable to the employer. After due notice was provided, a telephone hearing was held on June 2, 2015. Claimant participated until disconnecting. The employer participated by Jeff Owswald, Hearing Representative, and witness, Ms. Cindy Weber.

ISSUE:

The issue is whether the claimant left employment with good cause attributable to the employer.

FINDINGS OF FACT:

Having considered the evidence in the record, the administrative law judge finds: Lynneiln Funderburk was employed by Westar Foods, Inc. from March 31, 2014 until February 10, 2015 when he voluntarily left employment by failing to report for two or more consecutive work days without notifying the employer each day as required. Mr. Funderburk was employed as a full-time second line cook/dishwasher and was paid by the hour.

Mr. Funderburk last performed services for Westar Foods, Inc. on Saturday, February 7, 2015. After completing his work shift on February 7, 2015, the claimant did not report back to work or provide any further notification to the employer of the reasons for his non attendance at scheduled work. After Mr. Funderburk had failed to report for two or more scheduled work days in violation of company policy without providing notification to the employer or the reason for his non attendance, the claimant was considered to have voluntarily quit his employment with the company.

Mr. Funderburk had previously requested a transfer to a Coralville, Iowa work location because of personal issues. The employer had informed the claimant that his request for a transfer would be granted only if he provided a two-week advance notice and completed all scheduled work shifts prior to the transfer. Approximately two to three weeks after he last reported to work,

Mr. Funderburk called Cindy Weber to inquire about whether his transfer would still take place. Mr. Funderburk had provided no medical documentation to the employer indicating that he was unable to work for medical reasons. Claimant's request for a transfer was denied because the claimant had left work prior to completing a two-week notice period or his scheduled work days at the current location where he was employed.

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.

Iowa Admin. Code r. 871-24.25(2) 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:

(2) The claimant moved to a different locality.

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 claimant is considered to have voluntarily left his employment with Westar Foods, Inc. after he failed to report for scheduled work on February 8 and 9 and thereafter without providing notice to the employer of the reasons for his non attendance at work each day as required by company policy. The claimant completed his work shift on Saturday, February 7, 2015 and did not report thereafter and provided no further notification to the employer about why he was not reporting to work each day as required by company policy. Claimant had supplied no medical documentation to the employer indicating that he was unable to work for medical reasons. Mr. Funderburk was aware that he had an obligation to call in absences each day at least two

hours before the beginning of the work shift. When the claimant failed to report or call in for an extended period of time, the employer reasonably concluded that the claimant had chosen to leave his employment with the company.

Based upon the evidence in the record, the administrative law judge concludes that the claimant voluntarily left employment without good cause attributable to the employer. Unemployment insurance 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 is otherwise eligible.

DECISION:

The representative's decision dated April 16, 2015, reference 01, is affirmed. Claimant left employment without good cause attributable to the employer. Unemployment insurance 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 is otherwise eligible.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

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