

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KEVIN W BLAKE
Claimant

APPEAL NO. 13A-UI-08447-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WINNEBAGO INDUSTRIES
Employer

OC: 06/16/13
Claimant: Appellant (1)

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed a timely appeal from a representative's decision dated July 9, 2013, reference 01, which denied benefits finding that the claimant voluntarily quit work because he was arrested and confined to jail. After due notice was provided, a telephone hearing was held on August 26, 2013. The claimant participated. The employer participated by Mr. Gary McCarthy, Supervisor.

ISSUE:

At 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: Kevin Blake was employed by Winnebago Industries from July 30, 2012 until June 7, 2013 when he was considered to have voluntarily quit his work by failing to report for scheduled work for three consecutive workdays without notifying the employer of the reasons for his absence. Mr. Blake was employed as a full-time production worker and was paid by the hour.

Mr. Blake's last day of work was June 4, 2013. On that day the claimant was arrested at work and incarcerated for a two-week period. Mr. Blake failed to report for work or provide notice to the employer of the reasons for his impending absences on June 5, June 6 and June 7, 2013. After the claimant had failed to report for three consecutive workdays and had not provided notice as required by company policy, he was considered to have voluntarily relinquished his position with the company.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 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(4) and (16) provide:

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.

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

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code section 96.6(2).

The claimant's incarceration on multiple scheduled workdays is not a good-cause reason attributable to the employer for leaving. The employer's attribution of the absences as a voluntary leaving of employment was reasonable as the company was not expected to hold employment open for incarcerated employees. Benefits are denied.

DECISION:

The representative's decision dated July 9, 2013, reference 01, is affirmed. The 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

css/css