

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RICHARD A WHITE
Claimant

APPEAL NO: 09A-UI-17035-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

G & S SERVICE INC
Employer

OC: 10/18/09
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

Richard A. White (claimant) appealed a representative's November 9, 2009 decision (reference 01) that concluded he was not qualified to receive unemployment insurance benefits after a separation from employment from G & S Service, Inc. (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on January 27, 2010. The claimant participated in the hearing and was represented by Shane Michael, Attorney at Law. Glen Michael appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Was there a disqualifying separation from employment either through a voluntary quit without good cause attributable to the employer or through a discharge for misconduct?

FINDINGS OF FACT:

The claimant started working for the employer on December 15, 2008. He worked full time as driver/operator in the employer's towing business. His last day of work was June 2, 2009. From June 3 through June 15 he was off work on a medical excuse due to an injury which may have been work related. However, on June 13 he was incarcerated through on or about June 30, 2009. The employer arranged for the tow truck in the claimant's possession to be picked up on June 13 so it could be used for business purposes. When the claimant had not returned to work by June 22, the employer considered his employment terminated for job abandonment. When the claimant was released from jail on June 30, he contacted the employer and was informed that he had been replaced.

REASONING AND CONCLUSIONS OF LAW:

If the claimant voluntarily quit his employment, he is not eligible for unemployment insurance benefits unless it was for good cause attributable to the employer. Iowa Code § 96.5-1.

871 IAC 24.25 provides that, 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. However, an employee is also deemed to have left without good cause if the employee is absent from work due to becoming incarcerated. 871 IAC 24.25(16). Benefits are denied.

DECISION:

The representative's November 9, 2009 decision (reference 01) is affirmed. The claimant is deemed to have voluntarily left his employment without good cause attributable to the employer. As of June 22, 2009, benefits are withheld until such time as the claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/css