

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

REAT PANYUAN

Claimant

APPEAL NO: 08A-UI-06399-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

DEN HARTOG INDUSTRIES INC

Employer

**OC: 06/15/08 R: 01
Claimant: Appellant (1)**

Iowa Code § 96.5-1 - Voluntary Quit
871 IAC 24.25(4) - Voluntary Quit Without Good Cause

STATEMENT OF THE CASE:

Reat Panyuan (claimant) appealed an unemployment insurance decision dated July 10, 2008, reference 01, which held that he was not eligible for unemployment insurance benefits because he voluntarily quit his employment with Den Hartog Industries, Inc. (employer) without good cause attributable to the employer. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on July 28, 2008. The claimant participated in the hearing. The employer participated through Mike Ellis, Human Resources Manager and Brian Klein, Floor Supervisor. 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:

The issue is whether the claimant's voluntary separation from employment qualifies him to receive unemployment insurance benefits.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired as a full-time operator on September 5, 2006. He took vacation from May 16, 2008 through May 30, 2008 because he did not have a sitter for his kids. He was scheduled to return to work on June 2, 2008 but was arrested and incarcerated. The claimant called the employer that day and stated that he was in jail. He did not call on June 3, 2008 but he called the employer again on June 4, 2008 and told the floor supervisor that he thought he would get out of jail on June 6, 2008. The claimant did not return to work and was a no-call/no-show from June 9, 2008 through June 13, 2008. He testified that he was not allowed to make any phone calls during that time. He was considered to have voluntarily quit his employment per policy after he was a no-call/no-show for five consecutive days. The claimant did not get released from jail until June 17, 2008.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the reasons for the claimant's separation from employment qualify him to receive unemployment insurance benefits. The claimant is not qualified to receive unemployment insurance benefits if he voluntarily quit without good cause attributable to the employer. Iowa Code § 96.5-1.

Rule 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. A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980). The claimant demonstrated his intent to quit and acted to carry it out by failing to call or report to work for five consecutive work days.

871 IAC 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 § 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:

(4) The claimant was absent for three days without giving notice to employer in violation of company rule.

The claimant was deemed a voluntary quit on June 13, 2008 after five days of no-call/no-show. It is his burden to prove that the voluntary quit was for a good cause that would not disqualify him. Iowa Code § 96.6-2. The claimant failed to participate in the hearing and there is no evidence to establish that he quit with good cause attributable to the employer. Benefits are therefore denied.

DECISION:

The unemployment insurance decision dated July 10, 2008, reference 01, is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until he has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/pjs