

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MARCUS A HALL
Claimant

APPEAL NO. 08A-UI-11531-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

HOLT SALES AND SERVICE INC
Employer

**OC: 10/19/08 R: 02
Claimant: Appellant (1)**

Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Marcus Hall filed an appeal from a representative's decision dated December 1, 2008, reference 02, which denied benefits based on his separation from Holt Sales and Service, Inc. (Holt). After due notice was issued, a hearing was held by telephone on December 23, 2008. Mr. Hall participated personally. The employer did not respond to the notice of hearing.

ISSUE:

At issue in this matter is whether Mr. Hall was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

Having heard the testimony of the witness and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Hall began working for Holt in April of 2006 and was last employed full time as a lead person in shipping and receiving. He was arrested on August 11, 2008 because of a parole violation. He notified the employer of his arrest the same day. On Friday of that week, his father confirmed his arrest when he went to get Mr. Hall's paycheck. Mr. Hall's attorney also contacted the employer on his behalf. Mr. Hall and his attorney were told that his job would be kept open for him. Neither Mr. Hall, his father, or the attorney knew how long he would be in jail.

Mr. Hall was released from jail on October 6. He called the employer the same day and was told to come in the next day. On October 7, he was told he no longer had a job. He was told the employer had been unable to hold his job for the two months he was gone. A replacement had to be hired in his absence. The employer did not lay off any workers during the time Mr. Hall was in jail.

REASONING AND CONCLUSIONS OF LAW:

Mr. Hall became separated from his employment with Holt when he was arrested and confined to jail. The employer did initially indicate that his job would be held open for him. However, no one knew how long Mr. Hall would be in jail. Given what he was told on October 7, it appears

that the employer did not anticipate he would be gone two months. It is possible the employer agreed to hold the job open because of the belief he would only be gone a few days.

An individual who voluntarily quits employment is disqualified from receiving job insurance benefits unless the quit was for good cause attributable to the employer. Iowa Code section 96.5(1). An individual who leaves employment because he becomes incarcerated is presumed to have left employment voluntarily without good cause attributable to the employer. 871 IAC 24.25(16). Inasmuch as his incarceration was the sole reason for the separation, Mr. Hall is not entitled to job insurance benefits.

DECISION:

The representative's decision dated December 1, 2008, reference 02, is hereby affirmed. Mr. Hall left his employment for no 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 job insurance benefit amount, provided he satisfies all other conditions of eligibility.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/css