

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**JONATHAN S MCCARL**  
Claimant

**CYHAWK HOSPITALITY INC**  
Employer

**APPEAL 20A-UI-02496-S1-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 09/22/19  
Claimant: Appellant (1)**

Iowa Code § 96.5-1 - Voluntary Quit

**STATEMENT OF THE CASE:**

Jonathan McCarl (claimant) appealed a representative's March 12, 2020, decision (reference 04) that concluded ineligibility to receive unemployment insurance benefits due to voluntarily quitting with the CyHawk Hospitality (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on April 30, 2020. The claimant participated personally. The employer participated by Julie Keane, Director of Human Resources, and Chris Kadolph, General Manager.

**ISSUE:**

The issue is whether the claimant was separated from employment for any disqualifying reason.

**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 on September 30, 2019, as a full-time server. He signed for receipt of the employer's handbook when he was hired. In early February 2020, the general manager issued the claimant a final written warning about attendance and walking off the job. The employer notified the claimant that further infractions could result in termination from employment.

On February 6, 2020, the claimant was upset at work because his grandmother passed away. The general manager asked if he would like to leave early. The claimant said he would. On February 7, 8 and 9, 2020, the claimant did not appear for work and did not call to inform the employer of the reason for the failure to appear for work. The employer has a policy that an employee will be considered to have quit if the employee is absent for three days without giving notice to the employer. The claimant never appeared for work again. The claimant was considered to have quit for failing to appear for work. Continued work was available had the claimant not resigned.

## REASONING AND CONCLUSIONS OF LAW:

For the following reasons the administrative law judge concludes the claimant voluntarily quit work without good cause attributable to the employer.

Iowa Code section 96.5(1) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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(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:

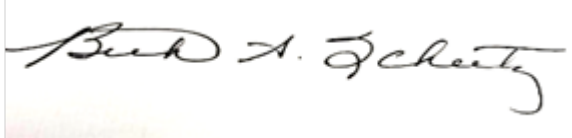
(4) The claimant was absent for three days without giving notice to employer in violation of company rule.

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's intention to voluntarily leave work was evidenced by the claimant's actions. The claimant stopped appearing for work. He did return to work, ask for time off for his grandmother's funeral, or call the employer to report his absence. There was no evidence presented at the hearing of good cause attributable to the employer. The claimant voluntarily quit without good cause attributable to the employer. Benefits are denied.

*Note to Claimant:* This decision determines you are not eligible for regular unemployment insurance benefits. If you disagree with this decision you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision. Individuals who do not qualify for regular unemployment insurance benefits due to disqualifying separations, but who are currently unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.

**DECISION:**

The representative's March 12, 2020, decision (reference 04) is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times the claimant's weekly benefit amount provided the claimant is otherwise eligible.

A handwritten signature in cursive script, reading "Beth A. Scheetz", is displayed within a rectangular box. The signature is written in dark ink on a light background.

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Beth A. Scheetz  
Administrative Law Judge

May 4, 2020  
Decision Dated and Mailed

bas/scn