

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LEE THYRAVONG

Claimant

APPEAL NO. 13A-UI-06891-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

FISHER GOLD STAR/DIVISION/HAMPTON

Employer

OC: 05/19/13

Claimant: Appellant (1)

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Lee Thyravong appealed an unemployment insurance decision dated June 6, 2013, reference 01, that concluded he voluntarily quit employment without good cause attributable to the employer. A telephone hearing was held on July 15, 2013. The parties were properly notified about the hearing. Thyravong participated in the hearing with the assistance of an interpreter, Steve Baccam. Diane Harrison participated in the hearing on behalf of the employer. Exhibit One was admitted into evidence at the hearing.

ISSUE:

Did Lee Thyravong voluntarily quit employment without good cause attributable to the employer?

FINDINGS OF FACT:

Lee Thyravong worked full time for the employer as a machinist from May 16, 2012, to March 25, 2013. He was informed and understood that under the employer's work rules, employees were required to notify the employer if they were not able to work as scheduled and would be considered to have voluntarily quit employment after three days of absence without notice to the employer.

Thyravong requested and was granted a 30-day leave of absence due to his wife's experiencing mental health problems. He was scheduled to return to work after his leave on April 29. He did not report to work because his wife was in the hospital due to chronic mental illness. He called the general manager, Joe Zakzrewski, and explained that his wife was in the hospital. Zakzrewski told him that he could report back to work on May 2.

Thyravong did not report to work on May 2, May 6, or May 7. On May 6, a nurse practitioner with Plains Area Mental Health contacted the human resources director, Diane Harrison, and said she had something to send to the employer. Harrison informed the nurse practitioner that the employer had not heard from Thyravong and his job was in jeopardy due to his being absent without notice. The nurse practitioner sent a letter stating that Thyravong was the primary

caregiver for his wife who suffers from mental illness. She recommended he remain at home to take care of his wife rather than place her in a residential facility.

Because Thyravong had been absent May 2, May 6, and May 7, without notice to the employer, Harrison wrote a letter to him stating that he had voluntarily quit employment under the employer's policy because he was absent from work on three days without notice.

Thyravong has never reported to the employer and offered to return to work.

REASONING AND CONCLUSIONS OF LAW:

The unemployment insurance law disqualifies persons who voluntarily quit employment without good cause attributable to the employer or who are discharged for work-connected misconduct. Iowa Code § 96.5-1 and 96.5-2-a.

The unemployment insurance rules state that a worker absent for three days without giving notice to employer in violation of company rule is presumed to have quit employment without good cause attributable to the employer. 871 IAC 24.25(4). In addition, the rules provide that a worker who fails to return to work from a leave of absence is considered to have quit employment. 871 IAC 24.22(2)j(2).

Lee Thyravong voluntarily quit employment without good cause attributable to the employer by being absent from work without notice to the employer and failing to return to work after his leave of absence.

Iowa Code § 96.5-1-c provides that a person is not disqualified for voluntarily quitting if he left employment for the necessary and sole purpose of taking care of a member of the immediate family who was then injured or ill, and if after the family member sufficiently recovered, he immediately returned to and offered his services to the employer, provided, however, that during such period the individual did not accept any other employment.

In this case, the claimant is disqualified unless he satisfies the conditions of Iowa Code § 96.5-1-c or he has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

DECISION:

The unemployment insurance decision dated June 6, 2013, reference 01, is affirmed. The claimant is disqualified unless he satisfies the conditions of Iowa Code § 96.5-1-c or he has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/css