

received the employer's revised drug policy which requires employees to submit to a drug test if there is reasonable suspicion he or she might be under the influence of drugs or alcohol at work. The criteria for reasonable suspicion is set out in the policy. The policy further states employees who refuse to take a drug test are considered a voluntary quit.

On August 8, 2005, Lead Person Dana Gleason reported to Supervisor Tim Dallenbach that he felt the claimant might be under the influence. Mr. Gaston was observed by Mr. Dallenbach and two other supervisors, Tim Nielsen and Dan Seeks. He was observed to have dilated eyes, dry mouth, was confused, disorientated, incoherent and "moody." The supervisors told him he would have to take a drug test and he would be driven to Allen Hospital by one of the supervisors, who would then take him home or back to the plant as long as he had someone else drive him home, either in his own vehicle or another person's. This is required by the employer's policy, as it would be irresponsible, and possibly illegal, for Omega to allow an employee to drive his or her own vehicle if the employer felt that person was impaired.

The claimant refused to take the drug test. He maintained it was because he was not allowed to drive his own vehicle to and from the test site, even though he had been promised a ride home by the supervisor. He did not consider taking a cab or bus to the plant the next day to collect his vehicle because "it cost money." The supervisors told him it would be considered a voluntary quit if he declined to take the test, and he informed them he would look for another job.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant is disqualified. The judge concludes he is.

Iowa Code section 96.5-1 provides:

An individual shall be disqualified for benefits:

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.

The decision as to whether his employment came to an end on August 10, 2005, was entirely that of the claimant. Whether he refused to go to the hospital for the test because he did not want to be tested or because he was not allowed to drive his own vehicle is irrelevant, the fact remains he declined to go to the test site to give a sample to determine if he was under the influence of drugs or alcohol.

Mr. Jones maintained he did not go because he could not take his own vehicle. The employer established the policy prohibiting employees under "reasonable suspicion" criteria from operating their own vehicle to and from the testing site for the safety of the employee and anyone else on the road, and to protect itself from any legal liabilities should an accident occur. This is a reasonable and prudent policy.

The claimant chose between taking a cab or bus to the plant the next day to pick up his vehicle and keeping his job, and he chose to forfeit his job. There is nothing in the record to establish the claimant's vehicle would not be safe in the employer's parking lot overnight, and the only reason Mr. Jones refused to take a cab or bus to get it the next day was because it "cost money." He did not ask a supervisor if someone could pick him up the next day, or try to make other arrangements, but simply chose to refuse the test and lose his job.

The record establishes the claimant quit without good cause attributable to the employer and he is disqualified.

DECISION:

The representative's decision of September 28, 2005, reference 01, is affirmed. Kevin Gaston is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount provided he is otherwise eligible.

bgh/kjw