

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DAVID A STUMP
Claimant

APPEAL NO. 15A-UI-12292-TN-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

TYSON FRESH MEATS INC
Employer

OC: 10/11/15
Claimant: Appellant (1)

Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

The claimant filed a timely appeal from a representative's decision dated October 30, 2015 (reference 01) which denied benefits, finding that the claimant had voluntarily quit work on October 18, 2015 by failing to report or provide notification to the employer for three days. After due notice was provided, a telephone hearing was held on November 23, 2015. The claimant participated. The employer participated by Ms. Maria Villalpando, Human Resource Manager.

ISSUE:

At issue is whether the claimant left the employment with good cause attributable to the employer.

FINDINGS OF FACT:

Having considered all of the evidence in the record, the administrative law judge finds: David Stump was employed by Tyson Fresh Meats, Inc. from January 2, 2014 until October 18, 2015; when the employer concluded that he had quit employment, as the claimant had not reported for work or provided notification for three consecutive work days. Mr. Stump was employed as a full-time maintenance mechanic. He was paid by the hour. His immediate supervisor was Terry Whethford.

Mr. Stump had been off work on a medical leave of absence from September 18 until October 12, 2015. The claimant had been authorized to be away from work and attendance infraction points were not being assessed for the claimant's days of absence during the approved leave.

Mr. Stump had requested a FMLA leave of absence and had been instructed by the employer to provide supporting medical documentation from his physician by October 12, 2015; if additional days away from work were to be authorized by the company for the FMLA.

Mr. Stump had reported back to work for his graveyard shift on October 12, 2015, and had completed the work shift that night. Because the claimant had not provided the medical documentation to support his need to be absent for additional work shifts, Mr. Stump was expected to report to work again the next night on October 13, 2015. When the claimant did not

report and the company received no notification from the claimant for the night of October 13 and his next working shifts of October 17 and 18, 2015, the employer concluded that Mr. Stump had chosen to quit his employment by failing to report or provide notification for three consecutive work days; in violation of the company's policy.

Employees are expected to call in to the company's call-in number if they are unable to report for their scheduled work shifts. Alternative telephone numbers are provided to all employees for the employee to call if they have additional issues or if they are unable to successfully call off of work using the company's attendance call-in number. These numbers are provided in the company handbook and are posted in the workplace. In addition, the telephone numbers are also provided on the employees time cards.

It is the claimant's position that he had attempted to call in for the night of October 13, 2015 but that his call was rejected by the attendance hotline, and that his employee ID was not recognized when he attempted to clock in for work. Mr. Stump believed that he had been discharged and had no further contact with the company.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 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.

In the case at hand, Mr. Stump had been allowed to be off work from September 18, 2015 until October 12, 2015; under a medical leave of absence that had been granted to him by Tyson Fresh Meats, Inc. The claimant's absence during the approved leave of absence were not held against him because he had been authorized time away from work by the company for medical reasons. It appears that Mr. Stump had also requested more time of week under the provisions of the Family Medical Leave Act and had been told that additional time away from work would not be authorized, and he would be terminated from him employment if he was unable to provide medical documentation supporting the need to be absent for more time.

Mr. Stump reported back to work at the end of his initial medical leave of absence, and did not again report back to work. After the claimant had not reported back to work and having had no contact with the employer for three consecutive work shifts, he was considered to have voluntarily quit his employment under the terms of the company's attendance policy.

Although the administrative law judge is aware that Mr. Stump maintains that he attempted to call in to work and also to clock in for work but was unable to do so, the administrative record establishes that the company provides employees with an alternative method of contacting the company if they experience difficulty in reporting or calling off work or have other unusual circumstances. Although the telephone number to be used for such purposes is provided by the company handbook, posted in the place of employment, and is also on company time cards, Mr. Stump did not contact the company's human resource office to explain his difficulties or to leave a message; although he knew or should have known that it was the procedure expected by the company. When the claimant did not call in, did not report to work, and did not use the alternate method of calling in for three consecutive work shifts, the employer reasonably concluded that Mr. Stump had quit his employment with the company.

The employer is entitled to expect its employees to report to work as scheduled or to be notified when and why the employee is unable to report to work. Inasmuch as the claimant failed to report or notify the employer for three consecutive work days, in violation of the employer's policy, the claimant is considered to have voluntarily left his employment without good cause attributable to the employer. Benefits are withheld.

DECISION:

The representative's decision dated October 30, 2015 (reference 01) is affirmed. The claimant quit employment without good cause attributable to the employer. Unemployment insurance benefits are withheld until the claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, and he is otherwise eligible.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

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