

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JOSE C YEPEZ GUERRERO**  
Claimant

**APPEAL NO: 18A-UI-03509-JE-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**SIOUX CITY BRICK & TILE CO**  
Employer

**OC: 02/25/18**  
**Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Leaving

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the March 14, 2018, reference 01, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on April 11, 2018. The claimant participated in the hearing with CTS Language Link Interpreter Omar (6840). Rich Whitesell, Assistant Plant Manager/Quality Manager, participated in the hearing on behalf of the employer.

**ISSUE:**

The issue is whether the claimant voluntarily left his employment.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time brick blender for Sioux City Brick & Tile Company from May 1, 2017 to March 5, 2018. The claimant sustained a foot injury in November 2017 and the employer worked with him to file for FMLA because employees are allowed eight unpaid absences before termination occurred and the claimant had used all of his unpaid days. The claimant was absent February 26, 2018. He reported for work February 27, 2018, and his supervisor told him he was out of unpaid time and needed a doctor's excuse to keep his job stating his absence was covered by FMLA. On February 28, 2018, the claimant brought in a doctor's note that stated he was seen by his doctor. The employer told the claimant the note needed to state he was seen for his foot or could not be counted as an FMLA absence. The employer told the claimant to go back to his doctor and get a specific excuse about his foot. The claimant left and never returned. After three working days, the employer determined the claimant voluntarily quit his job.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left his employment without good cause attributable to the employer.

Iowa Code § 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.

The employer did not terminate the claimant's employment. It told the claimant that in order for his absence to be covered by FMLA he needed to provide a note stating specifically that he was seen for his foot. Instead of doing so, however, the claimant left and did not return.

Inasmuch as the claimant failed to report for work or notify the employer for three consecutive work days in violation of the employer's policy, he is considered to have voluntarily left his employment without good cause attributable to the employer. Therefore, benefits are denied.

**DECISION:**

The March 14, 2018, reference 01, decision is affirmed. The claimant voluntarily left his employment without 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 benefit amount, provided he is otherwise eligible.

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Julie Elder  
Administrative Law Judge

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Decision Dated and Mailed

je/scn