

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ARCHIE L LILLIS JR
Claimant

APPEAL NO. 13A-UI-04266-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

PREMIER CASTING SERVICES
Employer

OC: 03/17/13
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 April 3, 2013, reference 01, which denied unemployment insurance benefits. After due notice, a telephone hearing was held on May 15, 2013. The claimant participated. The employer participated by Ms. Tami Fuller, Office Manager. Claimant's Exhibit One was received into evidence.

ISSUE:

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

FINDINGS OF FACT:

Having considered the evidence in the record, the administrative law judge finds: Archie Lillis, Jr. was employed by Premier Casting Services from February 3, 2012 until November 22, 2012 when he was considered to have abandoned his job by failing to report or provide notification for three consecutive work days. Mr. Lillis was employed as a full-time general laborer and was paid by the hour. His last day at work was November 17, 2012.

On Monday, November 19, 2012, Mr. Lillis called in sick stating that he had a doctor's excuse and would be reporting back to work the next work day. Mr. Lillis did not report for scheduled work on November 20, 21, or 22, 2012 and provided no additional notification to the employer each day as required. After the claimant had failed to report and provide notification the three consecutive work days, the employer considered the claimant had relinquished his position with the company based upon a company policy stating that failure to report or provide notification for three consecutive work days would be considered to be a voluntary quit. Mr. Lillis was aware of the call-in policy and the three-day rule.

Although Mr. Lillis had called in sick for November 19, 2012, he was arrested that day along with the driver of the vehicle that the claimant was riding in. Both the claimant and the driver were charged with possession and incarcerated. Mr. Lillis remained incarcerated until March 1, 2013. The claimant testified that the charges were dropped at that time.

After his arrest on November 19, 2012, Mr. Lewis provided no further notification to the employer about his status or inability to report. When relatives dropped off company equipment to Premier Casting Services no information was provided to the company on behalf of the claimant.

It is the claimant's position that when he was examined by his doctor on November 19, 2012, prior to his arrest that day, that the doctor had excused him from work for a period of November 18, 2012 through November 26, 2012 per a doctor's note that was prepared on November 19, 2012. (See Claimant's Exhibit One)

REASONING AND CONCLUSIONS OF LAW:

The question before the administrative law judge is whether the evidence in the record establishes the claimant left employment by failing to report for scheduled work and failing to notify the employer of his impending absences for three days in a row in violation of company policy. It does.

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.

871 IAC 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.

In the case at hand, Mr. Lillis had called his employer on November 19, 2012 to report that he was sick that day and would not be reporting that day and further indicated that he had a doctor's note covering his absence for November 19, 2012. The claimant's absence was excused that day. Mr. Lillis did not inform the employer however, at the time, that he had a doctor's note covering any further days than November 19, 2012. After the claimant was incarcerated on November 19, 2012 he subsequently had relatives drop off his company equipment to the company. Mr. Lillis provided no information through his relatives regarding his continued absence, reason for it, or that the claimant had a doctor's note covering any portion of his absences after November 19, 2012.

For the above stated reasons, the administrative law judge concludes that the claimant had the ability to provide notification to the employer why he was absent, his expected return date and if any of the periods of absence was covered by a doctor's note. Because the employer received

no further notification by Mr. Lillis or on his behalf that covered any period of time after Monday, November 19, 2012, the employer reasonably considered the claimant's failure to report to work on November 20, 21, and 22 to be consecutive days that the claimant was scheduled to work and the employer received no notification excusing his absences. Under company policy if an employee fails to report or provide notification for three consecutive work days they are considered to have voluntarily quit their employment and Mr. Lillis was aware of that rule.

The administrative law judge concludes that the claimant left employment by failing to report or provide reasonable notification to the employer for three consecutive work days in violation of company rule. Unemployment insurance benefits are withheld.

DECISION:

The representative's decision dated April 3, 2013, reference 01, is affirmed. The claimant left 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 is otherwise eligible.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

tll/tll