

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MELVIN RUSSELL
Claimant

APPEAL NO: 15A-UI-12486-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

PACKERS SANITATION SERVICES INC
Employer

OC: 10/04/15
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the November 4, 2015, reference 03, decision that denied benefits to the claimant. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on December 1, 2015. The claimant participated in the hearing. Bill Ortwine, Site Manager, and Lori Freimuth, Office Coordinator, 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 laborer for Packers Sanitation Services from March 18, 2015 to September 28, 2015. He voluntarily quit his job by failing to call the employer or show up for his scheduled shifts for three consecutive workdays in violation of the employer's policy.

The claimant was scheduled to work his regular shift from 11:45 p.m. to 6:30 a.m., September 22, 23, and 24, 2015. He did not report for work on those dates nor did he properly report those absences to the employer. The employer's policy requires employees' to call the Storm Lake office and leave a message on the answering machine if Office Coordinator Lori Freimuth is unavailable at least 30 minutes before the start time of their shift if they are going to be absent or tardy.

The claimant testified he called three times September 22, 2015 because he was experiencing a reaction to the chemicals the employer uses and the phone was busy each time he called. The employer had not received any other complaints regarding issues with its phone or answering machine. The claimant had received several written attendance warnings and had been told if he accumulated another unexcused absence his employment would be terminated. Because the claimant did not call the employer or report for his regularly scheduled shifts on September 22, 23, and 24, 2015, the employer determined he 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:

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.

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 November 4, 2015, reference 03, 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.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

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