

**IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI**

**CHARLEY L STEPHENSON
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**Appeal Number: 04A-UI-06483-LT
OC 05-16-04 R 04
Claimant: Appellant (1)**

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

Claimant filed a timely appeal from the June 8, 2004, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on July 8, 2004. Claimant did participate. Employer did participate through Deborah Fox.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed as a full-time temporary laborer at Riverside Paper Company through May 13, 2004 when he quit. His last day was on May 8, 2004 and he was a no-call/no-show after that point. When he first accepted the assignment on March 1, 2004, the hours were from 12 midnight through 8:00 a.m. Then the hours changed about a month after the assignment to

2:00 a.m. to noon the following day. The shifts also changed from an 8-hour to a 10-hour shift. Claimant did continue to work under these changes and did not tell Deborah Fox about his concerns of nearly falling asleep on the way home and did not ask for a shift change.

REASONING AND CONCLUSIONS OF LAW:

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

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.

An individual who voluntarily leaves their employment must first give notice to the employer of the reasons for quitting in order to give the employer an opportunity to address or resolve the complaint. Cobb v. Employment Appeal Board, 506 N.W.2d 445 (Iowa 1993).

Claimant acquiesced to the shift length and time changes by working under those terms for a month without requesting an alternative. Inasmuch as the claimant failed to report for work or notify the employer for three consecutive workdays in violation of the employer policy, and he failed to give notice to employer about his complaints prior to quitting, claimant is considered to have voluntarily left employment without good cause attributable to the employer. Benefits are withheld.

DECISION:

The June 8, 2004, reference 01, decision is affirmed. The claimant voluntarily left 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.

dml/kjf