

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DANIEL J COTTO**  
Claimant

**APPEAL NO: 08A-UI-03021-S2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**FINCO**  
Employer

**OC: 02/17/08 R: 01  
Claimant: Appellant (1)**

Section 96.5-1-c - Voluntary Quit for Care of Family Member

**STATEMENT OF THE CASE:**

Daniel Cotto (claimant) appealed a representative's March 18, 2008 decision (reference 01) that concluded he was not eligible to receive unemployment insurance benefits because he voluntarily quit work with Finco (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for April 10, 2008. The claimant was represented by Michele Lauters, Attorney at Law, and participated personally. The employer participated by Dave Furlong, Director of Operations; Cindi Williams-Hall, Human Resources/Payroll Representative; Carole Harmon, Administrative Assistant; and Doug Hesse, Welding Supervisor.

**ISSUE:**

The issue is whether the claimant voluntarily quit work without good cause attributable to the employer.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on November 7, 2007, as a full-time welder. He worked from 7:00 a.m. to 4:30 p.m., Monday through Friday and sometimes on Saturday. The claimant signed for receipt of the employer's handbook on November 7, 2007. The handbook indicates an employee must notify the employer of an absence prior to the start of his shift by calling a particular telephone number. The claimant notified the employer at the time he was hired that his wife suffered from a serious illness. The claimant thought the employer understood he would be absent from work many times for her illness and would give him special consideration. The claimant was absent frequently during his employment and his supervisor told the claimant that if his absenteeism continued, his employment prospects were not looking good. The employer had postings regarding Family Medical Leave but the claimant did not request the paperwork.

The claimant appeared for work on January 28, 2008. On January 29, 2008, the claimant talked to the administrative assistant. He said he missed the bus and would be late. At 11:39 a.m. the claimant notified the administrative assistant that he would not appear for work because the

cabs were too busy. On January 30, 2008, the claimant called the administrative assistant at 8:12 a.m. saying he would not be at work because he had big issues with his wife. The claimant did not appear for work or notify the employer of his absences on January 31, February 1, 2 or 4, 2008. The employer assumed the claimant had quit work when he did not appear for work after January 28, 2008.

#### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow the administrative law judge concludes the claimant voluntarily quit work 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.

Iowa Code section 96.5-1-c 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. But the individual shall not be disqualified if the department finds that:

c. The individual left employment for the necessary and sole purpose of taking care of a member of the individual's immediate family who was then injured or ill, and if after said member of the family sufficiently recovered, the individual immediately returned to and offered the individual's services to the individual's employer, provided, however, that during such period the individual did not accept any other employment.

The claimant's and the employer's testimony is inconsistent. The administrative law judge finds the employer's testimony to be more credible because it kept business records and offered four witnesses to corroborate the facts. The claimant was often confused on the dates of events and readily admitted he did not know when certain events occurred. In addition, the claimant's assertion that he worked three days and never requested remuneration for his time does not seem likely.

The claimant left work to take care of his wife who is ill. The claimant's wife has not sufficiently recovered and/or the claimant has not returned to and offered his services to the employer. The claimant has failed to meet the requirements of the statute and, therefore, is not eligible to receive unemployment insurance benefits.

**DECISION:**

The representative's March 18, 2008 decision (reference 01) is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times the claimant's weekly benefit amount, provided the claimant is otherwise eligible.

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Beth A. Scheetz  
Administrative Law Judge

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Decision Dated and Mailed

bas/pjs