

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**PATRICK A MURRAY**  
Claimant

**MOBILE POWER WASH INC  
CAREY CLEAN SYSTEMS**  
Employer

**APPEAL NO: 10A-UI-02090-ST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 11/29/09  
Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Quit  
871 IAC 24.25(28) – Reprimand/Suspension

**STATEMENT OF THE CASE:**

The claimant appealed a department decision dated February 8, 2010 reference 02, that held he voluntarily quit without good cause attributable to his employer on December 1, 2009, and benefits are denied. A telephone hearing was held on March 22, 2010. The claimant and his Attorney, John Heincke, participated. Rob Carey, Owner, and Allen Gunderson, Shop Manager, participated for the employer.

**ISSUE:**

Whether the claimant voluntarily quit without good cause attributable to the employer.

**FINDINGS OF FACT:**

The administrative law judge having heard the testimony of the witnesses, and having considered the evidence in the record, finds: The claimant started work for the employer as a full-time power washer, and he last worked as a lead man on November 30, 2009. The claimant was suspended on November 23 for that day and the next for unauthorized use of a company vehicle. When the claimant returned to work on the 25th, Owner Carey confronted the claimant about a \$1,760.00 business cell phone bill that he had used for personal calling. When requested by the employer, the claimant could not produce the cell phone and he exhibited erratic behavior. Upon further questioning by the owner, the claimant admitted using marijuana and methamphetamine, but denied his request to submit to drug testing. The claimant was suspended pending further employer investigation. The owner met with the claimant on November 30 and set forth some conditions in order to return to work. The claimant did retrieve the employer cell phone and brought it in to work. The claimant agreed to come into work the next day.

The claimant reported to work about 7:15 a.m. on December 1st, and the owner arrived about 8:00 a.m. As the owner was presenting the conditions for the claimant to return to work, he became upset and walked-out.

**REASONING AND CONCLUSIONS OF LAW:**

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(37) 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:

(37) The claimant will be considered to have left employment voluntarily when such claimant gave the employer notice of an intention to resign and the employer accepted such resignation. This rule shall also apply to the claimant who was employed by an educational institution who has declined or refused to accept a new contract or reasonable assurance of work for a successive academic term or year and the offer of work was within the purview of the individual's training and experience.

The administrative law judge concludes the claimant voluntarily quit without good cause attributable to his employer due to a reprimand/suspension on November 25th.

The claimant knew his employment status was in jeopardy due to erratic behavior that involved admitted illegal drug use, incurring an inordinate personal phone bill using the employer cell phone and mis-placing it, and refusing to take a drug test. Although the employer suspended the claimant on November 25, it was willing to allow the claimant to return to work under certain conditions. When the employer was preparing to address those conditions on December 1, the claimant walked out that is considered a voluntary separation from employment without good cause attributable to the employer.

**DECISION:**

The department decision dated February 8, 2010, reference 02, is affirmed. The claimant voluntarily quit without good cause on December 1, 2009. Benefits are denied until the claimant requalifies by working in and being paid wages for insured work equal to ten times his weekly benefit amount, provided the claimant is otherwise eligible.

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Randy L. Stephenson  
Administrative Law Judge

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Decision Dated and Mailed

rls/pjs