

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**LEONTAYE L FISHER**  
Claimant

**APPEAL NO: 15A-UI-13172-JE-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**TYSON FRESH MEATS INC**  
Employer

**OC: 10/25/15**  
**Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Leaving  
871 IAC 24.32(7) – Excessive Unexcused Absenteeism

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the November 17, 2015, reference 01, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on December 16, 2015. The claimant participated in the hearing. Kristi Fox, Human Resources Clerk, 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 production worker for Tyson Fresh Meats from September 8, 2014 to October 20, 2015. The employer determined he voluntarily quit his job by failing to call or show up for work for three consecutive workdays, in violation of the employer's policy.

The employer's attendance policy is a point-based, no-fault policy. A properly reported absence of one day results in one point. A no-call/no-show absence results in three points. Employees are discharged for accumulating ten points within a rolling calendar year period. The attendance policy is contained in the handbook and is explained during orientation. Employees may request their point totals and ask questions about the policy at any time.

On October 5 and 6, 2015, the claimant called the employer and reported he would not be in because he was ill; on October 7 and 8, 2015, he called in and reported he would be absent due to transportation issues; on October 9, 2015, he was a no-call/no-show; on October 12, 2015, he called and reported he would not be in because he was ill; and he was a no-call/no-show October 13 through October 19, 2015 and 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.

The claimant had accumulated 27.50 attendance points at the time the employer determined he voluntarily quit his job. While his absences October 5, 6, and 12, 2015 were due to properly reported illness, his absences October 9 and 13 through 19, 2015 were no-call/no-show absences and were not excused. The claimant testified he assumed he had exceeded the allowed number of attendance points and stopped calling in to report his absences. He did not provide any medical documentation excusing his absences, either when he called in to report he was ill or when he failed to call the employer at all.

Inasmuch as the claimant failed to report for work or notify the employer for three consecutive workdays 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 17, 2015, reference 01, 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.

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Julie Elder  
Administrative Law Judge

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Decision Dated and Mailed

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