

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JAYLIN SANDERS
Claimant

**FRANCHISE MANAGEMENT
INVESTORS US**
Employer

APPEAL 20A-UI-05680-J1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 04/12/20
Claimant: APPELLANT (2)

Iowa Code § 96.5(2)a – Discharge for Misconduct
Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

On June 8, 2020, the claimant filed an appeal from the May 29, 2020, (reference 01) unemployment insurance decision that denied benefits based on a voluntary quit without good cause. The parties were properly notified about the hearing. A telephone hearing was held on July 2, 2020. Claimant participated. Employer did not participate.

ISSUE:

Did claimant quit employment without good cause?
Did claimant commit job related misconduct?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for employer in May, 2019. Claimant last worked as a part-time cook. Claimant worked in a KFC for the employer. Claimant was separated from employment on February 24, 2020, when he was discharged for a three-day No-Call/No-Show.

Claimant admitted that he had one day of a No-Call/No-Show when he overslept. Claimant testified that his manager, Ms. Ringo, took him off the schedule and gave him permission to be off for two days. Claimant denied that he missed three-days of work as a without calling in. I find the claimant's testimony credible.

REASONING AND CONCLUSIONS OF LAW:

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.

Iowa Code section 96.5(2)a provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:

a. The disqualification shall continue until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

Iowa Admin. Code r. 871-24.32(1)a provides:

Discharge for misconduct.

(1) Definition.

a. "Misconduct" is defined as a deliberate act or omission by a worker which constitutes a material breach of the duties and obligations arising out of such worker's contract of employment. Misconduct as the term is used in the disqualification provision as being limited to conduct evincing such willful or wanton disregard of an employer's interest as is found in deliberate violation or disregard of standards of behavior which the employer has the right to expect of employees, or in carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design, or to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. On the other hand mere inefficiency, unsatisfactory conduct, failure in good performance as the result of inability or incapacity, inadvertencies or ordinary negligence in isolated instances, or good faith errors in judgment or discretion are not to be deemed misconduct within the meaning of the statute.

This definition has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. *Huntoon v. Iowa Dep't of Job Serv.*, 275 N.W.2d 445, 448 (Iowa 1979).

There is no evidence that claimant violated any company rule or that he failed to call in for three days. Claimant was terminated for no disqualifiable reasons. One day of a No-Call is not misconduct under the law. Claimant did not commit job related misconduct. Claimant did not voluntarily quit his job.

DECISION:

The May 29, 2020, reference 01, decision that denied benefits is reversed.

A handwritten signature in cursive script that reads "James F. Elliott".

James F. Elliott
Administrative Law Judge

July 13, 2020
Decision Dated and Mailed

je/scn