

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JOHN F POLLOCK**  
Claimant

**APPEAL NO. 09A-UI-15230-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**JENSEN BUILDERS LTD**  
Employer

**OC: 09/20/09**  
**Claimant: Appellant (1)**

Section 96.5-1 - Voluntary Quit

**STATEMENT OF THE CASE:**

The claimant appealed an unemployment insurance decision dated October 6, 2009, reference 01, that concluded the claimant voluntarily quit employment without good cause attributable to the employer. A telephone hearing was held on October 10, 2009. The parties were properly notified about the hearing. The claimant participated in the hearing. Mick McBride participated in the hearing on behalf of the employer.

**ISSUE:**

Did the claimant voluntarily quit employment without good cause attributable to the employer?

**FINDINGS OF FACT:**

The claimant worked full time as a concrete finisher for the employer from June 10, 2008, to August 28, 2009. The claimant was informed and understood that under the employer's work rules, employees were required to notify the employer before the start of their shift if they were not able to work as scheduled and would be considered to have resigned after three days of absence without notice to the employer.

On August 31, 2009, the claimant was unable to work due to back pain for which he was treated at the hospital. He called and notified the employer that he would not be at work that day.

The claimant was absent from work without notice on September 1, 2, and 3. He did not call in and notify the employer regarding his absences. Supervisors tried calling the claimant but his phone was not functioning at the time. When the employer had not heard from the claimant by September 9, 2009, a letter was sent to him informing him that he was considered to have resigned under the employer's policy as of September 3, 2009.

**REASONING AND CONCLUSIONS OF LAW:**

The unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer. Iowa Code section 96.5-1.

The unemployment insurance rules provide, "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 the employer in violation of company rule." 871 IAC 24.25(4).

Under the facts of this case and this rule, the claimant must be considered to have voluntarily quit without good cause attributable to the employer since he was absent for three days without notice in violation of the employer's rule. The fact that his phone was not functioning would not provide a legitimate excuse for not notifying the employer since there were obvious alternative ways for contacting the employer, such as using someone else's phone.

**DECISION:**

The unemployment insurance decision dated October 6, 2009, reference 01, is affirmed. The claimant is disqualified from receiving unemployment insurance benefits until he has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

---

Steven A. Wise  
Administrative Law Judge

---

Decision Dated and Mailed

saw/pjs