

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JOSE E PENA
Claimant

APPEAL NO. 08A-UI-03401-LT

**ADMINISTRATIVE LAW JUDGE
DECISION**

HOPE MINISTRIES
Employer

**OC: 03/02/08 R: 02
Claimant: Respondent (2)**

Iowa Code § 96.5(1) – Voluntary Leaving
Iowa Code § 96.5(2)a – Discharge/Misconduct

STATEMENT OF THE CASE:

The employer filed a timely appeal from the March 28, 2008, reference 01, decision that allowed benefits. After due notice was issued, a telephone conference hearing was held on April 22, 2008. Claimant did not participate. Employer participated through Cole Lindholm, Jeff Hanna and David Andrews.

ISSUE:

The issue is whether claimant was discharged for reasons related to job misconduct sufficient to warrant a denial of unemployment benefits or if he quit the employment without good cause attributable to the employer.

FINDINGS OF FACT:

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: Claimant was employed as a full time intake desk clerk from November 16, 2007 until February 29, 2008 when he quit. He left his shift early without permission leaving the desk to a trainee, Jeff Scott, who said claimant told him he was “done with Hope Ministries.” He also failed to report for a mandatory meeting later that day. Claimant returned Lindholm’s message and said he would not work for employer any longer and would be looking for a trucking job. He also left early without permission on February 28, 2008. Employer had warned him on February 15, 2008 after he failed to report for his shift or report his absence on the shift beginning February 14.

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 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(27) 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:

(27) The claimant left rather than perform the assigned work as instructed.

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2).

Claimant's failure to report for work and leaving work early without permission amounts to job abandonment and benefits are denied.

DECISION:

The March 28, 2008, reference 01, decision is reversed. 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. Inasmuch as no benefits were claimed or paid, no overpayment applies.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/css