

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

**JASON T PALLOS**

Claimant

**TRANSCO RAILCAR REPAIR INC**

Employer

**APPEAL 14A-UI-02399-LT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 02/09/14**

**Claimant: Appellant (1)**

Iowa Code § 96.5(1) – Voluntary Quitting

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the February 28, 2014, (reference 01) unemployment insurance decision that denied benefits based upon voluntarily quitting the employment. The parties were properly notified about the hearing. A telephone hearing was held on March 26, 2014. Claimant participated. Employer participated through plant manager Paul Armstrong. The employer's proposed exhibits were not admitted since the employer's agent did not provide enough time for them to be delivered to the claimant prior to the hearing.

**ISSUE:**

Did claimant voluntarily quit the employment with good cause attributable to employer?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full-time as a train car repair person and was separated from employment on January 30, 2014. His last day of work was January 24, 2014. He was scheduled to work Monday, January 27 at 6 a.m. He reported as scheduled and spoke to Armstrong in person. He told Armstrong he had hurt his back over the weekend and needed to see if he could get in to see the chiropractor. Armstrong told him to bring a doctor's note. Claimant said he would just go to work. Armstrong told him since he had reported his injury he could not let him work without seeing a doctor. Claimant knew the employer policy excuses medical absences with a doctor's note but did not provide one to Armstrong or administrative assistant Chris Glasair. Armstrong did not tell him he was fired and would have allowed him to work had he reported with a medical note. Quality assurance manager Harry Dominguez marked claimant as a no-call/no-show on Tuesday, January 28, when he did not report upstairs for attendance. Claimant argued he did not report because floor supervisor James Spence "hassled him" in the parking lot that morning about why he was at work because of his attendance points the day before. Claimant left without clocking in or speaking to anyone in the chain of command about

his interaction with Spence. He was a no-call/no-show on Wednesday, January 29 and Thursday, January 30, 2014. On Friday, January 31, he reported mid-shift and turned in his uniforms. The employer's policy provides that no-call/no-show absences for three consecutive workdays is considered a voluntarily quitting of employment. Claimant received a written copy on January 24, 2014, at a plant meeting.

## **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes claimant's separation from the employment was 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(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.

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). An employer is entitled to expect its employees to report to work as scheduled or to be notified when and why the employee is unable to report to work. Inasmuch as the claimant failed to report for work or notify the employer for three consecutive workdays in violation of the employer policy, the claimant is considered to have voluntarily left employment without good cause attributable to the employer. Although the claimant did not call or report because he thought he would be discharged if he missed another day of work, he did not provide medical documentation to support the absence, knowing that if he did the absence would be excused. Generally, when an individual mistakenly believes they are discharged from employment, but was not told so by the employer, and they discontinue reporting for work, the separation is considered a quit without good cause attributable to the employer. Since claimant did not follow up with management personnel or the owner, and his assumption of having been fired was erroneous, his failure to continue reporting to work was an abandonment of the job. Benefits are denied.

**DECISION:**

The February 28, 2014, (reference 01) decision is affirmed. Claimant voluntarily left the 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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Dévon M. Lewis  
Administrative Law Judge

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Decision Dated and Mailed

dml/pjs