

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

NATHANEL L YORK
Claimant

APPEAL NO. 11A-UI-04047-M2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

PER MAR SECURITY & RESEARCH CORP
Employer

**OC: 01/02/11
Claimant: Appellant (5)**

Section 96.5-1 – Voluntary Quit
Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated March 25, 2011, reference 02, which held claimant ineligible for unemployment insurance benefits based on a discharge. After due notice, a hearing was scheduled for and held on April 21, 2011. Claimant participated. Employer participated.

ISSUE:

The issue in this matter is whether claimant quit for good cause attributable to employer or was discharged.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant was scheduled for work for the employer on December 27, 2010. He did not go to work nor did he call the employer to report that he would not be at work. The employer called him after 2:00 p.m. to tell him the employment was over. Claimant testified that he didn't go to work because he was unhappy with his hours being cut, and wanted to call the employer to discuss it. This is inconsistent with the actual events of not going to work and not calling. A person who wants to work goes to work and asks for more hours if that is a problem. The actions evidence intent of, and an overt act of, quitting. The claimant quit by not going to work.

REASONING AND CONCLUSIONS OF LAW:

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.

The claimant quit without good cause attributable to the employer by refusing to continue working when work was available.

DECISION:

The decision of the representative dated March 25, 2011, reference 02, is modified with no effect. Claimant quit as opposed to being discharged. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.

Stan McElderry
Administrative Law Judge

Decision Dated and Mailed

srm/pjs