

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DERICK L SCHROEDER
Claimant

APPEAL NO. 11A-UI-04910-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MENARD INC
Employer

OC: 02/13/11
Claimant: Appellant (1)

Section 96.5(1) – Quit

STATEMENT OF THE CASE:

The claimant, Derick Schroeder, filed an appeal from a decision dated March 29, 2011, reference 03. The decision disqualified him from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on May 11, 2011. The claimant participated on his own behalf. The employer, Menard, participated by General Manager Dan Brackett, Shipping and Receiving Manager Dan Newman and was represented by Store Counsel Paul Hammell.

ISSUE:

The issue is whether the claimant quit work with good cause attributable to the employer.

FINDINGS OF FACT:

Derick Schroeder was employed by Menard from March 17, 2009 until January 22, 2011 as a part-time yard worker. He had applied for a leave of absence for the birth of his girlfriend's child to begin around December 20, 2010 and to return to work January 12, 2011. The General Manager Dan Brackett said the claimant would need to provide a doctor's statement certifying the girlfriend was pregnant and her approximate due date. This was never provided.

His last day of work was December 19, 2010. He did not return to work January 12, 2011, as he had stated. He did not contact the employer until January 17, 2011, when someone told him on Facebook he needed to talk with Shipping and Receiving Manager Dan Newman. He did contact Mr. Newman at that time and was told he had already been absent and no-call/no-show since January 12, 2011, and before he could be put back on the schedule he would have to talk with Mr. Brackett. The claimant did not talk with Mr. Brackett until January 22, 2011, at which time he was told that his employment had been terminated because he had been no-call/no-show to work for seven days.,

REASONING AND CONCLUSIONS OF LAW:

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.

The claimant had agreed to return to work on January 12, 2011, but failed to do so. He apparently assumed he could simply extend his leave of absence without any kind of approval from management. He ignored the instructions of the general manager to provide a doctor's statement, and of the shipping manager to talk with the general manager to be returned to the schedule. As a result he was no-call/no-show to work for five scheduled shifts after his leave of absence ended. Under the provisions of the above Administrative Code section, this is a voluntary quit without good cause attributable to the employer and the claimant is disqualified.

DECISION:

The representative's decision of March 29, 2011, reference 03, is affirmed. Derick Schroeder is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount, provided he is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/css