

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JAVAN R GENEVA
Claimant

APPEAL NO. 11A-UI-09530-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

BLAZIN WINGS INC
Employer

OC: 06-12-11
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the July 11, 2011, reference 02, decision that denied benefits. After due notice was issued, a hearing was held on August 12, 2011. The claimant did participate. The employer did not participate.

ISSUE:

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

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a cook part time beginning in August 2010 through May 3, 2011 when he voluntarily quit. The claimant was incarcerated for approximately one month beginning on May 5, 2011 through June 6, 2011. He missed at least two scheduled work shifts due to his incarceration.

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 § 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(16) 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 § 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 § 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:

(16) The claimant is deemed to have left if such claimant becomes incarcerated.

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2) (amended 1998).

The claimant's incarceration on multiple scheduled workdays was not a good-cause reason attributable to the employer for failing to be at work. Employer's attribution of the absences as a voluntary leaving of employment was reasonable as it is not expected to hold employment for incarcerated employees. Benefits are denied.

DECISION:

The July 11, 2011, reference 02, decision is affirmed. 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.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/css