

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MARK A MCLAUGHLIN**  
Claimant

**APPEAL NO. 07A-UI-04292-S2T**

**ADMINISTRATIVE LAW JUDGE  
AMENDED DECISION**

**KELLY SERVICES INC**  
Employer

**OC: 04/08/07 R: 02  
Claimant: Respondent (2)**

Section 96.5-2-a – Discharge for Misconduct

**STATEMENT OF THE CASE:**

Kelly Services (employer) appealed a representative's April 24, 2007 decision (reference 01) that concluded Mark McLaughlin (claimant) was discharged and there was no evidence of willful or deliberate misconduct. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on May 3, 2007. The claimant participated personally. The employer participated by Stephanie Webber, Staffing Supervisor.

**ISSUE:**

The issue is whether the claimant voluntarily quit work without good cause attributable to the employer.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on October 25, 2006, as a temporary employee. On November 3, 2006, he signed for receipt of the handbook and acknowledgment. He understood that he was supposed to call the employer, not the client, to report absences. The handbook contained a policy that considered an employee to have quit if the employee was absent for three days without giving notice to the employer.

On November 6, 2006, he was assigned to work at EDS as a full-time call center representative. The claimant received notice that he would be deployed in May 2007, to active duty. On or about March 19, the claimant left a message for the employer that he would be gone for a week to take care of his personal business. The employer did not receive the message. The claimant spoke to his supervisor at EDS about his absence. The claimant did not return from his travels to visit his children and parents until March 27, 2007.

On February 28, 2007, at 5:15 p.m. EDS contacted the employer and said the claimant had been absent without calling since March 9, 2007. The employer telephoned the claimant immediately. The claimant said he planned to return to work on February 29, 2007. The employer investigated and telephoned the claimant again on February 29, 2007, to separate the claimant from employment.

The testimony of the employer and claimant was inconsistent. The claimant thinks his last day at EDS was March 16, 2007. EDS reported to the employer that his last day of work was March 9, 2007. The administrative law judge does not find the date necessary to reach a decision.

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

For the reasons that follow the administrative law judge concludes the claimant voluntarily quit work without good cause attributable to the employer.

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 was absent from work for eight days without giving notice to the employer. Even if the employer had received the claimant's message of March 19, 2007, the claimant would have been gone without notice on March 26, 27 and 28, 2007. The employer has a rule that if the employee is absent without notice to the employer for three days the employee is deemed to have voluntarily quit. The claimant is deemed to have voluntarily quit based on his absence from work for eight days without giving notice to the employer. There is no evidence of good cause attributable to the employer.

#### **DECISION:**

The representative's April 24, 2007 decision (reference 01) is reversed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until he has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

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Beth A. Scheetz  
Administrative Law Judge

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Decision Dated and Mailed

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