

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JOSEPH A MCELROY
Claimant

APPEAL NO. 11A-UI-10640-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

AG PROCESSING INC A COOPERATIVE
Employer

OC: 07-10-11
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the August 2, 2011, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on September 6, 2011. The claimant did participate. The employer did participate through Phil Hood, refinery manager, and Ron Homerding, refinery superintendent, and was represented by Rob Kincaid of TALX UC eXpress. Employer's exhibit one was entered and received into the record.

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 material handler, full-time, beginning March 20, 2010, through July 5, 2011, when he voluntarily quit. The claimant was a no-call, no-show for work on June 30, July 1, and July 2, in contravention of the employer's written policy, a copy of which had been given to him. The claimant had never been given permission to stop calling in for work when he was going to be absent. The situation had occurred previously and the claimant had been specifically warned that he was required to call in every time he was absent. The claimant was not off on any short-term disability when he failed to call in to report his absence on June 30, July 1 and 2.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left employment 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.

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. Benefits are withheld.

DECISION:

The August 2, 2011, reference 01, decision is affirmed. The claimant voluntarily left 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/kjw