

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JAMES G JEFFERY SR**  
Claimant

**APPEAL NO. 09A-UI-04982-CT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**JENSEN BUILDERS LTD**  
Employer

**Original Claim: 02/22/09  
Claimant: Appellant (1)**

Section 96.5(1) – Voluntary Quit

**STATEMENT OF THE CASE:**

James Jeffery filed an appeal from a representative's decision dated March 23, 2009, reference 02, which denied benefits based on his separation from Jensen Builders, Ltd. After due notice was issued, a hearing was held by telephone on April 27, 2009. Mr. Jeffery participated personally. The employer participated by Nick McBride, Human Resources Manager.

**ISSUE:**

At issue in this matter is whether Mr. Jeffery was separated from employment for any disqualifying reason.

**FINDINGS OF FACT:**

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Jeffery began working for Jensen Builders, Ltd. on April 2, 2008 and last performed services on May 8, 2008. He worked full time as a concrete finisher. At the time of hire, he had criminal charges pending from an arrest in December of 2007. The employer was made aware of the pending charges.

Mr. Jeffery went to court on the criminal charges on May 9, 2008 and entered a plea of "guilty." He was sentenced to five years in prison. He notified his foreman by telephone that he would not be returning to the job because of his incarceration. Continued work would have been available if Mr. Jeffery had not been imprisoned.

**REASONING AND CONCLUSIONS OF LAW:**

An individual who quits employment is disqualified from receiving job insurance benefits unless the quit was for good cause attributable to the employer. Iowa Code section 96.5(1). An individual who leaves employment due to incarceration is presumed to have left without good cause attributable to the employer. 871 IAC 24.25(16). The fact that the employer was aware of the pending charges and the possibility that Mr. Jeffery might have to leave work to go to jail

does not make the separation attributable to the employer. Inasmuch as there was no other reason for the separation, benefits are denied.

**DECISION:**

The representative's decision dated March 23, 2009, reference 02, is hereby affirmed. Mr. Jeffery was separated from Jensen Builders, Ltd. for no good cause attributable to the employer. Benefits are withheld until he has worked in and been paid wages for insured work equal to ten times his weekly job insurance benefit amount, provided he satisfies all other conditions of eligibility.

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Carolyn F. Coleman  
Administrative Law Judge

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Decision Dated and Mailed

cfc/kjw