

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TODD R LONG
Claimant

APPEAL NO. 09A-UI-08195-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

205 CORPORATION
Employer

OC: 03/22/09
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Todd Long filed a timely appeal from a representative's decision dated June 5, 2009, reference 03, which denied benefits based upon his separation from 205 Corporation. After due notice, a telephone hearing was scheduled for and held on June 23, 2009. Claimant participated personally. The employer participated by Mike Feters, General Manager.

ISSUE:

At issue is whether the claimant voluntarily left employment with good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witnesses and having considered the evidence in the record, finds: The claimant was employed as a part-time server for the captioned employer dba Tavern Restaurant from May 26, 2008 until approximately August 10, 2008 when he voluntarily left employment by discontinuing to report for scheduled work.

Mr. Long had requested time away from work at his part-time job at Tavern Restaurant during the Iowa State Fair. Mr. Long had previously worked as a security guard at the Iowa State Fair each year and desired to continue to do so. The company's general manager, Mr. Fedders, reluctantly agreed to allow the claimant a leave of absence during the course of the Iowa State Fair, but expected the claimant to return to employment at the conclusion of the fair. Due to some miscommunication regarding the times that the claimant was available for work, the employer had inadvertently scheduled Mr. Long to work some day schedules during this period of time. Mr. Long contacted Mr. Fedders by phone. It was agreed that the claimant would not have to work the hours that he had been scheduled. Mr. Long had made some statements indicating his ability to work the following Friday. Based upon the conversation between the parties, Mr. Fedders concluded that the claimant would be unavailable to work during the period of the Iowa State Fair and revised the company's schedule, placing Mr. Long back on the schedule at the conclusion of the fair.

Mr. Long, believing that he was expected to work the Friday that he offered to come in, attempted to report for work that day. An assistant manager, who did not have the authority to hire or fire employees, indicated to Mr. Long that it was the manager's "understanding" that Mr. Long was not scheduled to work. The claimant interpreted the assistant manager's statements to mean that he had been discharged. It appears that Mr. Long may have heard rumors from hourly employees to that effect also. The claimant did not confirm his employment status with Mr. Fedders during the remainder of the time that he had been authorized to be away from work. The claimant did not report back to work, although he was scheduled on the company's scheduling board to return. Mr. Long personally came to the facility to obtain his final paycheck and although Mr. Fedders was present, the claimant did not initiate a conversation or attempt to verify his employment status. All employees are informed at the time of hire that the only individual who has the authority to hire or fire employees is Mr. Fedders.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant voluntarily quit employment by failing to continue to report for scheduled work. Here, the evidence in the record establishes that the claimant had made the unusual request to be allowed to be away from his part-time job for an extended period to work for a different employer, the Iowa State Fair. The evidence establishes that Mr. Fedders, the general manager, granted the claimant permission to be away from work to perform services for the Iowa State Fair. When the claimant was mistakenly scheduled to work during this period of time, he called Mr. Fedders and Mr. Fedders agreed to remove him from the schedule for the duration of the Iowa State Fair. Due to some miscommunication about the claimant's offer to work a Friday during the fair, he had been removed from the schedule that day also. When the claimant was informed by an assistant manager, who did not have the authority to hire or fire, that the claimant had been removed from the schedule, Mr. Long did not follow a reasonable course of action by directly contacting the general manager to determine his employment status. Claimant did not check and thus was not aware that he had been placed back on the schedule as previously agreed. When the claimant came to pick up his final paycheck, although Mr. Fedders was present, the claimant did not initiate a conversation to determine his employment status. The evidence in the record establishes that all employees are told at the time of hire that no other individual in the organization has the authority to hire or fire any employee except Mr. Fedders.

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.

For the reasons stated herein, the administrative law judge concludes the claimant voluntarily quit employment by failing to report for scheduled work, but cause for leaving attributable to the employer has not been established. Benefits are withheld.

DECISION:

Representative's decision dated June 5, 2009, reference 03, is affirmed. Claimant voluntarily quit employment for reasons not attributable to the employer. Unemployment insurance benefits are withheld until the claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, providing that he is otherwise eligible.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

srs/pjs