

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**SHEILAH RIPPY**  
Claimant

**APPEAL NO: 14A-UI-10551-ET**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**BLUE RIDGE PAPER PRODUCTS INC**  
Employer

**OC: 09/14/14**  
**Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Leaving

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the September 30, 2014, reference 01, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on October 29, 2014. The claimant participated in the hearing with witness/friend/conveyor taper motor worker for the employer prior to the closing of the plant, Casey Mullaley. Kevin Barton, Human Resources Manager, participated in the hearing on behalf of the employer.

**ISSUE:**

The issue is whether the claimant voluntarily left her employment.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time apprentice maintenance mechanic for Blue Ridge Paper Products from January 25, 2005 to August 15, 2014. She voluntarily left her employment by failing to call the employer or show up for work August 13, 14 and 15, 2014.

The employer uses a no-fault attendance policy and employees are discharged upon reaching eight points. One full day absence, an absence of more than four hours of an eight-hour shift or six hours of a 12-hour shift results in one point; consecutive day absences accompanied by a doctor's note results in one point; tardiness of four or less hours results in 1/3 point; tardiness of at least two hours but less than four hours results in 2/3 point; clocking out and returning to work in under two hours results in 1/3 point; clocking out and returning to work in over two hours results in 2/3 point. A no-call no-show results in one attendance point. Points drop off after 12 months.

Five points in 12 months results in a verbal warning; six points in 12 months results in a written warning; seven points in 12 months results in a review by the union and management team; a second accumulation of seven points in 12 months can result in disciplinary action up to and including termination after a review by the management team; and eight points within 12 months results in termination.

The claimant had seven attendance points as of August 10, 2014. Her schedule rotated between all three shifts. On Sunday, August 10, 2014, the claimant worked the night shift for a co-worker and was told by her supervisor she did not have to report for work Monday, August 11, 2014, but should report Tuesday morning, August 12, 2014, at 6:00 a.m. The claimant's supervisor only worked the day shift. On August 11, 2014, at 10:00 p.m. the claimant called and left a voice mail stating she could "hardly get out of bed" and would not be at work August 12, 2014. She was at the home of co-worker Casey Mullaley when she made the call to her supervisor. Mr. Mullaley worked the day shift August 12, 2014, and while at work heard that the claimant's employment had been terminated. The claimant stated three other co-workers also told her she had been discharged. Consequently, she did not report for work August 13, 2014. She was aware the employer's policy requires employees to call in as soon as possible and at least 30 minutes prior to the start of her shift. She waited to call the employer until between 10:00 a.m. and 11:00 a.m. Her supervisor did not answer or return her call immediately so the claimant assumed her employment was terminated and did not call human resources or any other management employees to learn the status of her job. She did not call the employer again or report for work August 13, 14 or 15, 2014. At the end of August 2014 the claimant received a certified letter from the employer but she did not pick up the letter.

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

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

Iowa Admin. Code r. 871-24.25(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 had seven attendance points as of August 10, 2014. She called in to report she would not be at work August 12, 2014, but failed to call the employer or report for work August 13, 14 and 15, 2014. Even assuming she called and reported her absence August 12, 2014, due to a sore back, she received one point, for a total of eight points. Had the claimant reported for work or properly reported an absence due to illness or injury August 13, 14 and 15, 2014, she most likely would have been eligible for benefits because her last absence would

then have been due to properly reported illness or injury. (Emphasis added). Instead, because the claimant heard from co-workers that her employment was terminated the afternoon or evening of August 12, 2014, she did not show up for work and did not attempt to call the employer until at least 10:00 a.m. When she did call and did not receive a return call from her supervisor she made no effort to contact human resources. The employer never told the claimant her employment was terminated. The claimant relied on statements from co-workers, rather than from the employer, to determine her employment was over. Where an individual mistakenly believes that he is discharged and discontinues coming to work (but was never told he was discharged), the separation is a voluntary quit without good cause attributable to the employer. LaGrange v. IDJS, (Unpublished, Iowa App. 1984).

Inasmuch as the claimant failed to report for work or notify the employer for three consecutive work days in violation of the employer's policy, she is considered to have voluntarily left her employment without good cause attributable to the employer. Therefore, benefits are denied.

**DECISION:**

The September 30, 2014, reference 01, decision is affirmed. The claimant voluntarily left her employment without good cause attributable to the employer. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

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Julie Elder  
Administrative Law Judge

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Decision Dated and Mailed

je/pjs