

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RAMONA VERDINEZ
Claimant

APPEAL NO: 12A-UI-14999-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

JACOBSON STAFFING COMPANY LC
Employer

OC: 11-04-12
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the December 13, 2012, 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 February 15, 2013. The claimant participated in the hearing. Danielle Aeschelman, Office Manager and Margo Knight, Assistant Account Manager, participated in the hearing on behalf of the employer.

ISSUE:

The issue is whether the claimant voluntarily left his 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, third shift production worker for Jacobson Staffing Company assigned to Jeld-Wen Windows from August 15, 2012 to November 5, 2012. The claimant was a no-call no-show August 28, 2012 and September 10, 2012. The employer issued her a verbal warning by telephone September 17, 2012, regarding her no-calls no-shows/attendance and reminded her she was required to call both the employer and client when she was going to be absent. The claimant indicated she understood the attendance policy and call-in procedure. On November 4, 2012, the claimant was scheduled to work at 10:00 p.m. Around 6:30 or 7:00 p.m. federal marshals came to her home looking for her roommate/babysitter due to an old warrant and arrested him upon finding him there. Consequently, she did not have childcare for that evening. The employer had no record of her trying to call to notify the employer or the client she would be absent from work that night and therefore it considered her to have voluntarily quit her job.

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 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.

The claimant did not call the employer to inform it she would be absent from work on three occasions during her first three months of employment. Despite being warned about the issue by the employer September 17, 2012, the claimant was again a no-call/no-show November 4, 2012. Inasmuch as the claimant failed to report for work or notify the employer for three 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 December 13, 2012, 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.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/pjs