

#### FINDINGS OF FACT:

Having heard the testimony of the witness and having examined all of the evidence in the record, the administrative law judge finds: Cody Agans was employed by Bridgestone/Firestone from April 19, 2004 until September 2, 2005. He was a full-time production worker on the 6:00 p.m. until 6:00 a.m. shift.

Mr. Agans had approximately two hours of "down time" on the September 6, 2005, shift due to lack of supplies for his machine. The supervisor told him he would not be paid for those two hours. A union representative was present and discussed the situation with Mr. Agans, but the claimant did not pursue the matter, merely left in the middle of his shift.

After he got home he tried to contact the union representative at work on his cell phone but there was no answer. During the three-day holiday weekend Mr. Agans was not able to contact the union business office because it was closed. However, it was open for regular work hours on Tuesday and Wednesday, but the claimant did not attempt to call anyone during that time. He indicated he was not sure if he wanted to go back to work for the employer. It was not until Thursday, September 8, 2005, that he called his department representative, Mike Keanu, and asked for his job back. Initially the employer was willing to reinstate him but that offer was withdrawn later in the day.

#### REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant is disqualified. The judge concludes he is.

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 administrative law judge understands that the claimant was angry and frustrated about being docked two hours of pay when he did not feel it was his fault materials had not been supplied to him. However, a union representative was present on the floor and had even talked to him about the situation and he did not make any attempt to file a grievance, protest the

action or even set up a formal meeting about the situation. Instead he merely walked off the job without notifying anyone.

The claimant was not sure he wanted to continue working for the employer and delayed contacting the union business office for several days before finally attempting to get his job back. During this time, he did not report for work or call in to report his absence for three days. The employer has the right to accept the claimant walking off the job in the middle of the shift, and not calling in for three days as a voluntary quit without good cause attributable to the employer. The claimant is disqualified.

DECISION:

The representative's decision of September 30, 2005, reference 01, is affirmed. Cody Agans is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount provided he is otherwise eligible.

bgh/kjf