

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**CHARLES OHARA**  
Claimant

**APPEAL NO. 08A-UI-00280-ET**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ADDOCO INC**  
Employer

**OC: 11-25-07 R: 04**  
**Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Leaving

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the January 2, 2008, reference 02, decision that denied benefits. After due notice was issued, a telephone hearing was held before Administrative Law Judge Julie Elder on January 24, 2008. The claimant participated in the hearing. Marlynn Phill, Office Manager, participated in the hearing on behalf of the employer.

**ISSUE:**

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

**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 pallet builder for Addoco from December 5, 2005 to July 19, 2007. He was experiencing personal problems and difficulty obtaining childcare and transportation to work and consequently violated the employer's attendance policy. The policy allows three unexcused absences before termination occurs. Unexcused absences are those an employee accumulates that are not covered by a doctor's excuse, sick leave, or vacation, or three or more incidents of leaving early. The claimant received his first unexcused absence February 19, 2007, and the employer issued a written warning; received his second unexcused absence June 27, 2007, and the employer issued a three-day suspension; and called in July 17, 2007, because he did not have childcare or a ride to work and received his third unexcused absence. On July 18, 2007, he called in and said he would not be in because he did not have childcare or a ride and told the employer he would come in July 19, 2007, to sign resignation papers because he knew he exceeded the allowed number of unexcused absences and believed it looked better to quit rather than be fired. The claimant accumulated excused absences January 9 and February 13, 2007, for leaving early; July 16, 2007, for an incident of tardiness; and January 16, April 18, and July 9 and 10, 2007, due to properly reported illness.

## REASONING AND CONCLUSIONS OF LAW:

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

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. 871 IAC 24.25. The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code section 96.6-2. The determination of whether unexcused absenteeism is excessive necessarily requires consideration of past acts and warnings. The term "absenteeism" also encompasses conduct that is more accurately referred to as "tardiness." An absence is an extended tardiness, and an incident of tardiness is a limited absence. Absences related to issues of personal responsibility such as transportation, lack of childcare, and oversleeping are not considered excused. Higgins v. Iowa Department of Job Service, 350 N.W.2d 187 (Iowa 1984). In this case, the claimant faced termination because he accumulated three unexcused absences in violation of the employer's policy and consequently chose to resign rather than be discharged. Regardless of whether he quit before the employer could terminate his employment, the claimant violated the employer's attendance policy because he was experiencing personal problems, a lack of childcare and transportation issues, none of which are considered excused absences. Therefore, the administrative law judge must conclude the claimant quit without good cause attributable to the employer before he could be discharged for disqualifying job misconduct. Benefits are denied.

## DECISION:

The January 2, 2008, reference 02, decision is affirmed. The claimant voluntarily left his employment without good cause attributable to the employer. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

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Julie Elder  
Administrative Law Judge

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Decision Dated and Mailed

je/kjw