

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JOE J BEATTIE
Claimant

APPEAL NO. 08A-UI-02532-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

FLYING J INC
Employer

**OC: 01/13/08 R: 02
Claimant: Appellant (1)**

Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Joe Beattie filed an appeal from a representative's decision dated March 13, 2008, reference 02, which denied benefits based on his separation from Flying J, Inc. After due notice was issued, a hearing was held by telephone on March 31, 2008. Mr. Beattie participated personally. The employer participated by Shawn Ashby, General Manager.

ISSUE:

At issue in this matter is whether Mr. Beattie was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Beattie began working for Flying J, Inc. on July 30, 2007 as a full-time maintenance person. He was arrested on October 11 and confined to jail for violating a "no-contact" order issued in favor of his wife. He notified his supervisor he was in jail. He was released on October 26 but re-arrested the same day because of an altercation that occurred when he went to his home to get his personal possessions. He had to spend an additional night in jail as a result.

Mr. Beattie attempted to return to work at Flying J, Inc. but was unable to do so because his wife was also employed there. The "no-contact" order was still in effect and the employer was unable to work out a schedule whereby the two would not have contact at work. As a result, it was decided that Mr. Beattie would not be rehired. An attempt to transfer him to the employer's Davenport location did not work out.

REASONING AND CONCLUSIONS OF LAW:

It is true that Mr. Beattie never advised the employer that he was quitting. However, an individual is presumed to have left employment for no good cause attributable to the employer if he becomes incarcerated. See 871 IAC 24.25(16). Mr. Beattie was in jail and unable to report

to work for at least two weeks. Since his incarceration was unrelated to his employment, his separation was not for cause attributable to the employer.

The administrative law judge does not doubt that the employer intended to rehire Mr. Beattie after his release from jail. However, the fact of the "no-contact" order made rehiring him an impossibility since his wife was still working there. Moreover, the employer's failure to rehire him does not alter the fact that his separation occurred in the first place because of his incarceration. For the reasons cited herein, the administrative law judge concludes that Mr. Beattie is not entitled to job insurance benefits.

DECISION:

The representative's decision dated March 13, 2008, reference 02, is hereby affirmed. Mr. Beattie left his employment with Flying J, Inc. for no 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 job insurance benefit amount, provided he satisfies all other conditions of eligibility.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/pjs