

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RYAN P THOMAS

Claimant

VAN DIEST SUPPLY CO

Employer

APPEAL NO. 11A-UI-04659-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 02/27/11

Claimant: Appellant (1)

Section 96.5-1 –Voluntary Quit

871 IAC 24.25(4) – Absent Without Notice/Job Abandonment

STATEMENT OF THE CASE:

The claimant appealed a department representative's decision dated April 4, 2011, reference 03, that held he voluntarily quit without good cause on January 19, 2011, and benefits are denied. A hearing was held on May 4, 2011. The claimant participated. Carolyn Cross, Personnel Manager, participated for the employer. Employer Exhibit 1 was received as evidence.

ISSUE:

Whether claimant voluntarily quit without good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witnesses, and having considered the evidence in the record, finds that: The claimant worked as a full-time production operator from May 4, 2010 to January 4, 2011. The claimant received the employer attendance policy. The policy provides an employee with eight points they may be deducted for attendance policy violations. Employees can gain points for perfect attendance. Zero points subject an employee to termination.

The claimant received a written warning on January 5, 2011 that he only had one point with the admonition he needed to improve his attendance or face employment termination. Claimant last worked on Friday, January 14. He called in an absence on January 18. He received a message from a co-worker that he had been terminated. Claimant believed that he still had one-half attendance point, but he failed to call in to the employer for the next three days (January 19 through 21) to learn whether he still had a job. The employer considered the claimant abandoned his job and quit employment when he failed to report for work. The employer did not terminate claimant's employment until January 21 when he failed to report or call in for work.

REASONING AND CONCLUSIONS OF LAW:

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 concludes that claimant voluntarily quit without good cause effective January 21, 2011 by job abandonment.

The claimant questioned his co-worker's message he was terminated, because he believed he had an attendance point (one-half) after his absence on January 18. Claimant admitted he should have called the employer. His employment termination was not a discharge due to attendance, but a voluntary quit for failing to call in and report to work for three days..

DECISION:

The decision of the representative dated April 4, 2011, reference 03, is affirmed. The claimant voluntarily quit without good cause due to job abandonment on January 21, 2011. Benefits are denied until the claimant requalifies by working in and being paid wages for insured work equal to ten times his weekly benefit amount, provided the claimant is otherwise eligible.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/css