

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

THOMAS H ROBBINS
Claimant

APPEAL 20A-UI-11451-DG-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

SMITHFIELD PACKAGED MEATS CORP
Employer

OC: 07/05/20
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated September 8, 2020, (reference 01) that held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on October 26, 2020. Claimant participated. Employer participated by Shannon Anthofer, Human Resources Officer. The administrative law judge took official notice of the administrative record including the fact-finding documents.

ISSUE:

The issue in this matter is whether claimant quit for good cause attributable to employer?

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on March 16, 2020. Claimant did not call into work or show up at work on March 20, 2020 through March 24, 2020 which violated employer's three day no-call/no-show policy.

Claimant began working for employer as a full-time production worker on November 19, 2019. Claimant was given a copy of employer's rules and policies when he began working for employer. Employer has a three day no-call/no-show policy which states that any employee who does not call into work or show up at work for three consecutive scheduled days of work is considered to have quit the employment.

In March, 2020 claimant was going through a lot of personal issues with his family, and law enforcement. Claimant knew he was close to violating employer's no-fault attendance policy as he dealt with those issues. Claimant did not call into work or show up at work on March 16, 2020 and March 17, 2020. Claimant thought that he was going to be fired after he missed work on those dates. Claimant was never told that he was fired, and he was still employed through March 24, 2020.

Claimant was scheduled to work on March 20, 2020. He did not call into work or show up at work on that date, and on March 23, 2020, and March 24, 2020. He was scheduled to work on

each of those dates. Claimant was not incarcerated at that time. Claimant mistakenly believed he had been fired, and he was dealing with personal issues. Employer reviewed claimant's attendance, and it decided that claimant had violated its three day no-call/no-show policy when he failed to call into work or show up at work for three consecutive scheduled days of work.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge holds that the evidence has failed to establish that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship by not coming into work or calling into work for three consecutive days of scheduled work.

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.

Iowa Admin. Code r. 871-24.25(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.

Generally, when an individual mistakenly believes they are discharged from employment, but was not told so by the employer, and they discontinue reporting for work, the separation is considered a quit without good cause attributable to the employer. *LaGrange v. Iowa Dep't of Job Serv.*, (No. 4-209/83-1081, Iowa Ct. App. filed June 26, 1984). Since claimant did not follow up with management personnel or the owner, and his assumption of having been fired was erroneous, his failure to continue reporting to work was an abandonment of the job.

An employer is entitled to expect its employees to report to work as scheduled or to be notified when and why the employee is unable to report to work. Inasmuch as the claimant failed to report for work or notify the employer for three consecutive workdays in violation of the employer policy, the claimant is considered to have voluntarily left employment without good cause attributable to the employer. Benefits are withheld.

Note to Claimant: This decision determines you are not eligible for regular unemployment insurance benefits. If you disagree with this decision you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision. Individuals who do not qualify for regular unemployment insurance benefits due to disqualifying separations, but who are currently unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your**

eligibility under the program. Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>. If this decision becomes final, or if you are not eligible for PUA, you may have an overpayment of benefits.

DECISION:

The decision of the representative dated September 8, 2020, (reference 01) is affirmed. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.



Duane L. Golden
Administrative Law Judge

October 30, 2020
Decision Dated and Mailed

dlg/sam