

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TYLER STAFFORD
Claimant

O'REILLY AUTOMOTIVE INC
Employer

APPEAL NO: 13A-UI-00191-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 12/02/12
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit
871 IAC 24.25(23) – Serious Family Need

STATEMENT OF THE CASE:

The claimant appealed a department decision dated December 27, 2012, reference 01, that held he voluntarily quit without good cause attributable to his employer on December 5, 2012, and benefits are denied. A telephone hearing was held on February 7, 2013. The claimant did not participate. Jason Snow, Manager, participated for the employer. Employer Exhibit 1 was received as evidence.

ISSUE:

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

FINDINGS OF FACT:

The administrative law judge having heard the testimony of the witness, and having considered the evidence in the record, finds: The claimant worked for the employer as a full-time parts specialist from February 1, 2012 to November 4. The claimant was excused from work due to his son's surgery. He was expected to return to work later in November. The employer understood the surgery had been re-scheduled from November 7 to 9 and claimant would return to work on November 10.

When claimant did not return to work, the manager tried to contact him several days later and thereafter. Claimant did not contact the employer to explain his extended period of absence. Claimant came into the store on December 5. When confronted about whether he quit he answered yes.

Claimant failed to respond to the hearing notice.

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(23) 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:

(23) The claimant left voluntarily due to family responsibilities or serious family needs.

The administrative law judge concludes the claimant voluntarily quit without good cause attributable to his employer effective December 5, 2012.

The employer consented to claimant being absent from work due to his son's surgery but he was expected to return after it was over on November 10. The employer did not agree to extend the leave and it tried to reach the claimant to understand why he failed to return. Claimant acknowledged that he had quit when he came into the store on December 5.

DECISION:

The department decision dated December 27, 2012, reference 01, is affirmed. The claimant voluntarily quit without good cause on December 5, 2012. 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