

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RICHARD S NEWMAN
Claimant

APPEAL NO. 06A-UI-09957-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

M&I HOME LENDING SOLUTIONS
Employer

OC: 09/17/06 R: 2
Claimant: Appellant (1)

Section 96.5(1) – Quit

STATEMENT OF THE CASE:

The claimant, Richard Newman, filed an appeal from a decision dated October 11, 2006, reference 01. The decision disqualified him from receiving unemployment benefits. After due notice was issued a hearing was held by telephone conference call on October 25, 2006. The claimant participated on his own behalf. The employer, M&I Home Lending Solutions (M&I), participated by Employment Manager Shirley Barrett-Jones. Exhibits One and Two were admitted into the record.

ISSUE:

The issue is whether the claimant quit work with good cause attributable to the employer.

FINDINGS OF FACT:

Richard Newman was employed by M&I from July 24 until September 5, 2006. He was a full-time account executive. At the time of hire he received written instructions on how to access the employee handbook on-line and was notified he would be responsible for the contents.

The claimant's last day of work was August 8, 2006. After that he was off work and called in the first few days to say he was ill. There was a period of time when he did not call in and the first contact the employer had with him after that was an e-mail on August 28, 2006. He asked if he could return to work and Employment Manager Shirley Barrett-Jones responded by return e-mail that he could return on Monday, August 28, 2006, but that he would need to bring in a doctor's release as he had been gone for more than five days.

E-mails were exchanged on August 25 and 28, 2006, between Mr. Newman and Ms. Barrett-Jones about what information would need to be included in the doctor's statement and whether it could be faxed or if an original was necessary. He was supplied with all the pertinent information. The last e-mail on August 28, 2006, from the employer asked the claimant if he would be in to work on August 29, 2006, but he did not respond. The claimant was no-call/no-show to work on August 29, 30 and 31, 2006. An e-mail, and a voicemail message from the employer on August 29, 2006, reminded the claimant of the employer's policy that three days no-call/no-show to work was considered a voluntary quit.

A final e-mail was sent on Friday, September 1, 2006, notifying the claimant he was to contact the employer no later than 8:00 a.m. on Tuesday, September 5, 2006. If he did not notify the employer of his current status by that date he would be considered a voluntary quit. He did not respond and his employment ended effective September 5, 2006.

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 claimant was no-call/no-show to work for three consecutive days. Under the provisions of the above Administrative Code section, this is a voluntary quit without good cause attributable to the employer. The employer did make substantial effort to contact the claimant and notify him of the necessity to call in, but he did not. Mr. Newman did not give any reason for failing to respond to the e-mails and voicemail messages even though he knew the consequences. The record establishes the claimant without good cause attributable to the employer and he is disqualified.

DECISION:

The representative's decision of October 11, 2006, reference 01, is affirmed. Richard Newman is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount, provided he is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/cs