

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

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Appeal Number: 04O-UI-06586-SWT
OC: 01/04/04 R: 01
Claimant: Appellant (1)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated January 29, 2004, reference 01, that concluded he voluntarily quit employment without good cause attributable to the employer. A telephone hearing was held on August 6, 2004. The parties were properly notified about the hearing. The claimant did not personally participate in the hearing but was represented by Michael Tulis, attorney at law. Jim Petzoldt participated in the hearing on behalf of the employer with a witness, Kelly Hammett. Exhibit One was admitted into evidence at the hearing.

FINDINGS OF FACT:

The claimant worked for the employer as production worker from April 8, 2003 to November 25, 2003. The claimant was informed and understood that under the employer's work rules, employees were required to notify the employer 30 minutes before the start of their shift if they were not able to work as scheduled and were considered to have quit employment if they were absent for three days without notice to the employer and had 14 attendance points in a 12-month period. Absents with proper notice count as one point and absences without proper notice count as three points. As of November 25, 2003, the claimant had three points.

The claimant was scheduled to work on November 26, November 28, November 29, December 1, and December 2, 2003. The claimant called in properly and reported that he was sick on November 26. On November 28, the claimant called several hours after the start of his shift. He stated that he was in California due to an emergency and wanted his paycheck sent there. He gave no indication as to when or whether he would be returning to work. He was absent without notice on November 29, December 1, and December 2. After missing work on December 2, the claimant had three days of absence without notice to the employer and was at 16 points under the attendance policy. Pursuant to the employer's policy, the claimant was deemed to have voluntarily quit employment. The claimant never contacted the employer again about his employment.

REASONING AND CONCLUSIONS OF LAW:

The unemployment insurance law provides for a disqualification for claimants who voluntarily quit employment without good cause attributable to the employer or who are discharged for work-connected misconduct. Iowa Code Sections 96.5-1 and 96.5-2-a.

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 evidence establishes the claimant voluntarily quit employment without good cause attributable to the employer by virtue of his absence for three consecutive days without notice to the employer and because he abandoned his job by leaving employment and never contacting the employer again. No good cause for leaving employment as defined by the unemployment insurance law has established in this case.

DECISION:

The unemployment insurance decision dated January 29, 2004, reference 01, is affirmed. The claimant is disqualified from receiving unemployment insurance benefits until he has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

saw/kjf