

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**STEVEN R BROOKBANK**  
Claimant

**APPEAL NO. 13A-UI-13454-H2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**00-728-3641**  
**AMERICAN POP CORN CO**  
Employer

**OC: 11/03/13**  
**Claimant: Appellant (1)**

Iowa Code § 96.5(1) – Voluntary Leaving

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the December 3, 2013, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on December 31, 2013. The claimant did participate along with his witness, Angela Warner. The employer did participate through Rosa Bailey, Human Resources and (representative) Greg Hoffman, Vice-President of Production. Employer's Exhibit One was entered and received into the record.

**ISSUE:**

Did the claimant voluntarily quit his employment without good cause attributable to the employer?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as an elevator operator full time beginning October 9, 2006 through September 2, 2013 when he voluntarily quit. The claimant was incarcerated beginning on August 21, 2013 through September 4, 2013. Angela Warner went to the employer on September 2 and told them that the claimant was incarcerated. The claimant had received a copy of the employer's handbook or policy manual. Absences due to incarceration are not considered excused by the employer. The employer never promised the claimant that his job would be held for him while he was incarcerated.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left his employment without good cause attributable to the employer.

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(16) 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:

(16) The claimant is deemed to have left if such claimant becomes incarcerated.

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code §96.6(2) (amended 1998).

The claimant's incarceration on multiple scheduled workdays was not a good-cause reason attributable to the employer for leaving. Employer's attribution of the absences as a voluntary leaving of employment was reasonable as it is not expected to hold employment for incarcerated employees. Benefits are denied.

**DECISION:**

The December 3, 2013, reference 01, decision is affirmed. The claimant voluntarily left his employment without good cause attributable to the employer. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

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Teresa K. Hillary  
Administrative Law Judge

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Decision Dated and Mailed

tkh/pjs