

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

TRACY L WHITE
Claimant

MENARD INC
Employer

APPEAL 15A-UI-07862-JP-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 06/14/15
Claimant: Appellant (1)

Iowa Code § 96.5(2)a – Discharge for Misconduct
Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant filed an appeal from the July 6, 2015, (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on August 5, 2015. Claimant participated. Employer participated through Department Manager Stacy Hanson. DC General Manager Bob Richmond and Assistant General Manager Dan Gerovac were present for the hearing on behalf of the employer but did not testify.

ISSUE:

Did claimant voluntarily leave the employment with good cause attributable to employer or did employer discharge claimant for reasons related to job misconduct sufficient to warrant a denial of benefits?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full-time as a general laborer from August 19, 2014, and was separated from employment on June 19, 2015, when she quit.

The employer has an attendance policy which requires employees to contact the employer 60 minutes prior to the start of their scheduled shift if they are going to be absent. The policy also provides that three consecutive days of no-call/no-show is considered job abandonment. These policies are the handbook an employee receives on their first day of employment. Claimant signed acknowledgement that she received the handbook. Claimant was also aware of the policy, as she had contacted the employer to let it know she would be absent on prior occasions.

The claimant failed to report for work or notify the employer of her absences for more than three consecutive scheduled workdays, on June 5, 2015, June 9, 2015, June 10, 2015, June 12, 2015, June 13, 2015, June 15, 2015, June 16, 2015, and June 17, 2015, in violation of the employer's policy. Ms. Hanson left a voicemail for claimant on June 12, 2015, but did not hear back from claimant. Claimant did not communicate with the Employer after June 3, 2015.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant's separation from the employment was without good cause attributable to the employer. Benefits are denied.

Iowa Code § 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.

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. Claimant failed to contact the employer to let it know she would not be at work for eight consecutive work days. Inasmuch as the claimant failed to report for work or notify the employer for more than 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.

While claimant's leaving the employment may have been based upon good personal reasons, it was not for a good-cause reason attributable to the employer according to Iowa law. Benefits must be denied.

DECISION:

The July 6, 2015, (reference 01) unemployment insurance decision is affirmed. Claimant voluntarily left the employment without good cause attributable to the employer. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Jeremy Peterson
Administrative Law Judge

Decision Dated and Mailed

jp/pjs