

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**BRIAN K TERRY**

Claimant

**APPEAL NO. 12A-UI-05164-HT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**SECURITAS SECURITY SERVICES USA**

Employer

**OC: 04/01/12**

**Claimant: Appellant (1)**

Section 96.5(1) – Quit

**STATEMENT OF THE CASE:**

The claimant, Brian Terry, filed an appeal from a decision dated April 27, 2012, reference 01. The decision disqualified him from receiving unemployment benefits. After due notice was issued a hearing was held by telephone conference call on May 30, 2012. The claimant participated on his own behalf. The employer, Securitas, participated by Human Resources Manager Dennis Ingle and was represented by TALX in the person of Tom Kuiper.

**ISSUE:**

The issue is whether the claimant was discharged for misconduct sufficient to warrant a denial of unemployment benefits.

**FINDINGS OF FACT:**

Brian Terry was employed by Securitas from June 27, 2011 until February 22, 2012 as a full-time security guard. He received the employee handbook and attended the company orientation for new hires. One of the employer's policies, required by Iowa Law, is that no one can be issued the necessary security guard credentials if they have been convicted, or are under charge, of a felony.

The claimant's last day of work was February 22, 2012. He was no-call/no-show for his scheduled shifts on February 24 and 27, 2012. Human Resources Manager Dennis Ingle contacted Mr. Terry's direct supervisor, Art, who said he was aware the claimant has some "legal issues" he had to deal with, but had no more information than that an arrest warrant had been issued.

Mr. Terry had been aware of the pending arrest warrant and had spent the last week or so trying to make arrangements for bail before he was arrested. He was finally arrested on March 3 and arraigned on March 5, 2012, on five charges of sexual abuse of a minor and one count of lascivious acts with a child. Mr. Ingle had checked the Polk County web site and found the information although Mr. Terry had not reported this or his incarceration personally. A letter was sent to the claimant stating he was suspended pending the outcome of the criminal charges under Iowa law and company policy,

The claimant has pled not guilty and a trial is scheduled in the month of September 2012.

**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(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 is considered a voluntary quit by operation of law due to the fact he was in jail for a period of time and missed several scheduled shifts without proper notice to the employer. Under the provisions of the above Administrative Code section, this is a voluntary quit without good cause attributable to the employer and the claimant is disqualified.

**DECISION:**

The representative's decision of April 27, 2012, reference 01, is affirmed. Brian Terry is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount in insured work, provided he is otherwise eligible.

---

Bonny G. Hendricksmeier  
Administrative Law Judge

---

Decision Dated and Mailed

bgh/pjs

