

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

CASEY L HAGANS
Claimant

COMES INVESTMENTS INC
Employer

APPEAL 21A-UI-01565-S2-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/29/20
Claimant: Appellant (1)

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

STATEMENT OF THE CASE:

The claimant filed an appeal from the December 18, 2020, (reference 02) unemployment insurance decision that denied benefits based upon his voluntary quit. The parties were properly notified about the hearing. A telephone hearing was held on February 22, 2021. The claimant Casey L. Hagans participated. The employer Comes Investments, Inc. participated through payroll manager Missy Stoos and area coach Sarah Owens. Employer's Exhibits 1-4 were admitted into the record.

ISSUE:

Did claimant voluntarily quit the employment with good cause attributable to employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed part-time as a cook from December 22, 2019, and was separated from employment on May 17, 2020, when he quit his employment.

Employer maintains a policy which provides that if an employee fails to show up for three consecutive shifts without notifying employer, employer will deem the employee to have abandoned their position.

Claimant was exposed to someone who tested positive for COVID-19. On May 11, 2020, he sent a message to his supervisor and told him he needed to be off of work for seven days to quarantine, but that if that was not possible then he thanked employer for the opportunity to work for it. (Employer's Exhibit 4) Claimant's supervisor indicated he needed a note from a doctor stating he needed to be off of work. Claimant did not provide a note for his missed shifts on May 12, 13, and 14, 2020. On May 14, 2020, Owens called claimant to find out if he had obtained a doctor's note, but claimant did not answer her call and his voicemail was not set up for a message, nor did he respond to any text messages from employer. (Employer's Exhibit 4) On May 17, 2020, employer considered employee to have abandoned his employment.

Claimant received two prior written warnings for attendance issues for failing to show up for his scheduled shifts.

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.

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.

Iowa Admin. Code r. 871-24.25 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.

Iowa unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer or who are discharged for work-connected misconduct. Iowa Code §§ 96.5(1) and 96.5(2)a. A voluntary quitting of employment requires that an employee exercise a voluntary choice between remaining employed or terminating the employment relationship. *Wills v. Emp't Appeal Bd.*, 447 N.W.2d 137, 138 (Iowa 1989); *Peck v. Emp't Appeal Bd.*, 492 N.W.2d 438, 440 (Iowa Ct. App. 1992). A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980).

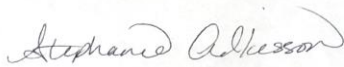
Employer has carried its burden of proving claimant's departure from employment was voluntary. However, claimant has not carried his burden of proving the voluntary leaving was for good cause attributable to employer.

The administrative law judge finds claimant voluntarily resigned. Claimant did not call in or show up for three consecutive days of work. These days were May 12, 13, and 14, 2020. Employer's policy is that three no-call, no-show absences constitutes a voluntary resignation. Claimant believed his text message to his supervisor telling him he would not show up for work was sufficient to remain off work; however, claimant failed to respond to employer's request for documentation supporting his absence and did not return employer's calls. While claimant testified he was unable to get a COVID-19 test, his employer did not ask for test results;

employer asked for a note from a medical provider. Claimant did not attempt to obtain a note as required to excuse his absences indicating he chose to end the employment relationship. Claimant has not established a good cause reason attributable to employer for the resignation. He is therefore disqualified from benefits from the date of separation.

DECISION:

The December 18, 2020, (reference 02) unemployment insurance 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.



Stephanie Adkisson
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515)478-3528

March 3, 2021
Decision Dated and Mailed

sa/mh

Note to Claimant: This decision determines you are not eligible for regular unemployment insurance benefits. If you disagree with this decision you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision. Individuals who do not qualify for regular unemployment insurance benefits due to disqualifying separations, but who are currently unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.