

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JERRY MILLER
Claimant

APPEAL NO. 12A-UI-07259-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

BRIDGESTONE AMERICAS TIRE
Employer

OC: 05/27/12
Claimant: Appellant (1)

Section 96.5(1) – Quit

STATEMENT OF THE CASE:

The claimant, Jerry Miller, filed an appeal from a decision dated June 14, 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 July 11, 2012. The claimant participated on his own behalf. The employer, Bridgestone, participated by Human Resources Jim Funcheon, Human Resources Coordinator Samantha Peterson, and Section Manager Tom Barragan.

ISSUE:

The issue is whether the claimant quit work with good cause attributable to the employer.

FINDINGS OF FACT:

Jerry Miller was employed by Bridgestone from June 6, 2011 until May 29, 2012 as a full-time production worker. His last day of work was April 24, 2012, and after that date he called in to the guard shack as required, reporting he would be absent due to personal business. This continued through May 8, 2012.

On April 30, 2012, he had spoken directly with Human Resources Coordinator Samantha Peterson to explain his problem. His wife had had to leave Saint Louis, Missouri, to take care of her terminally ill mother in Louisville, Kentucky. The claimant, therefore, had to go to Saint Louis to take care of their children, ages nine, seven, five and three. He did not have child care for them and still does not. Ms. Peterson suggested he might be eligible for FML and sent him the paperwork to be filled out by himself and the doctor. These documents had to be completed and returned by May 11, 2012. They were not returned.

On May 11 and 13, 2012, he was no-call/no-show to work. On May 14, 2012, he called and spoke with Ms. Peterson again and admitted he had not sent the FML application back in but did have a doctor's note excusing him for work from May 2 through 4, 2012. Ms. Peterson reminded him he still must call the guard shack every day he was going to be absent, that calling her did not meet the requirements of the call-in policy.

On May 16, 2012, he called the guard shack and said he was on FML and was no-call/no-show to work on May 17, 21, 22, 25, 26 and 27, 2012. Under the collective bargaining agreement, seven days of no-call/no-show to work is considered a voluntary quit. He was sent a letter by Section Manager Tom Barragan on May 29, 2012, notifying him he was considered a voluntary quit.

Mr. Miller maintained he had called the guard shack every day but then acknowledged that although he had called, no one had answered and so there was no report about any call in by the security guards.

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(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 claimant is considered a voluntary quit by operation of law by being no-call/no-show to for more than three days. Mr. Miller left without good cause attributable to the employer because he moved to another locality to take care of family members. The employer worked with him on this situation to the extent possible, sending him paperwork so he could apply for FML and save his job, but he did not comply. He did not continue calling in and reporting to the guard shack as required. The record establishes the claimant quit without good cause attributable to the employer and he is disqualified.

DECISION:

The representative's decision of June 14, 2012, reference 01, is affirmed. Jerry Miller 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/kjw