

would need to take a few days off work. He did not see a doctor during that time but returned to work after approximately three days. The employer allowed him to continue working until the claimant was arrested on a probation violation in Minnesota April 18, 2004. He was subsequently incarcerated in Minnesota until June 1, 2004, at which time he was released. The claimant stopped to pick up his check but never returned to work after serving just over six weeks in jail.

#### 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.

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code Section 96.6-2 (amended 1998). While many claimants object to their separations being labeled "voluntary quits" when they are incarcerated, under the law, if an individual has been absent because they are in jail, it is deemed to be a voluntary quit. In the case before the court, the claimant could not establish that he returned and performed work for the employer after his release from jail. Regardless of whether the employer had work available for the claimant at that time or not, under the law the claimant's six-week absence due to the claimant's incarcerations constitutes job abandonment. Consequently, the administrative law judge must conclude that the claimant has not established a good cause reason for his leaving and therefore benefits must be denied.

#### DECISION:

The September 27, 2005, reference 02, 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.

je/s