

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ALAN D HINDERS

Claimant

APPEAL NO. 08A-UI-00837-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

AABACO HOLDINGS LTD

Employer

**OC: 12/30/07 R: 03
Claimant: Appellant (1)**

Section 96.5(1) – Quit

STATEMENT OF THE CASE:

The claimant, Alan Hinders, filed an appeal from a decision dated January 18, 2008, reference 01. The decision disqualified him from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on February 13, 2008. The claimant participated on his own behalf. The employer, Aabaco Holdings, participated by Co-Owner Roger Bockes. Exhibits One and A were admitted into the record.

ISSUE:

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

FINDINGS OF FACT:

Alan Hinders was employed by Aabaco Holdings from May 10, 2005 until November 12, 2007, as a full-time saw operator. His last day of work was Friday, July 27, 2007. On Monday, July 30, 2007, he left a message on the company answering machine saying he had appointments he had to take care of. On July 31, 2007, he left another message saying he would not be in stating, "I have no reason, that's just the way it is."

On August 1, 2007, he called Co-Owner Robert Bockes after his shift had ended and seemed to be intoxicated. During that conversation, he said he had hurt his back at work on July 27, 2007, and if he was not better by August 13, 2007, he wanted workers' compensation. After that he wavered back and forth as to whether the injury occurred at work or was the result of a car accident in which he was involved in September 2006.

On August 6, 2007, he spoke with Roger Bockes and said he had reported the injury to Tim Buss and Craig Brodie on July 27, 2007. When the employer checked with these two individuals, they had no knowledge of it. On August 7, 2007, the claimant came in a filled out a first report of injury.

Mr. Hinders did not consult a doctor until September 2007, but did not provide any medical documentation of any type to the employer. His workers' compensation claim was denied by the insurance company on October 11, 2007, at which time the employer considered him to have voluntarily quit. On November 12, 2007, he decided he was "feeling better" and called Robert Bockes about returning to work. At that time he was told it would "not be a good idea."

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 was no-call/no-show to work after July 31, 2007. His call on August 1, 2007, was after the end of his shift and was therefore not a properly reported absence. His contacts on August 6 and 7, 2007, were for purposes other than notifying the employer he would not be in to work. At no time had the claimant requested any long-term leave of absence, provided the employer with a doctor's statement, or even sought medical attention to verify the need to be off work. There was no contact at all between August 7 and November 12, 2007. The claimant must be considered to have abandoned his job. When he requested to return to work on November 12, 2007, it was not pursuant to any release from his doctor, only his belief he was "better."

DECISION:

The representative's decision of January 18, 2008, reference 01, is affirmed. Alan Hinders is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount, provided he is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/kjw