

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

WARREN R HEFEL
Claimant

SCHIEFFER CO INTERNATIONAL LC
Employer

APPEAL NO: 14A-UI-03795-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/09/14
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit
871 IAC 24.25(4) – Job Abandonment
871 IAC 24.25(27) – Job Refusal/Alcohol Testing

STATEMENT OF THE CASE:

The claimant appealed a department decision dated March 28, 2014, reference 01, that held he voluntarily quit without good cause attributable to his employer on February 20, 2014, and benefits are denied. A telephone hearing was held on April 29, 2014. The claimant participated. Jim Oberman, Plant Manager, and Jolene Kramer, HR Representative, participated for the employer. Employer Exhibit 1 was received as evidence.

ISSUE:

Whether the claimant voluntarily quit without good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge having heard the witness testimony and having considered the evidence in the record, finds: The claimant was hired on September 30, 2010 and last worked for the employer as a full-time braid specialist on February 20, 2014. Employer Drug-Free Alcohol workplace policy subjects employees to alcohol testing if acting in a reasonably suspicious manner. The claimant received the policy and he was with an employee group that received training on it.

On the morning of February 20, 2014 an employee reported to the plant manager he believed claimant was acting unsafe and erratic. The plant manager called claimant into an office conference. He could smell alcohol and claimant was slurring his words. When he asked claimant if he had been drinking, he replied he had the night before.

The HR person was called to the plant manager's office. Based on an employer suspicion claimant was under the influence of alcohol, claimant was asked to submit to testing at Tri-State Occupational Health. He replied he would fail the test. He was told if he failed he would not be terminated but he would have to participate in a treatment program.

Claimant asked to leave the meeting and go to his car to get his lunch pail. He got in his car and left work. After repeated attempts, the HR person reached claimant by telephone and requested he go to Tri-State for alcohol testing. He was told that if he refused his leaving the plant would be considered a voluntary quit. Claimant did not go for testing and he did not return to work.

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) and (27) provide:

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.

(27) The claimant left rather than perform the assigned work as instructed.

The administrative law judge concludes claimant voluntarily quit without good cause attributable to his employer due to alcohol testing refusal(s) and job abandonment on February 20, 2014.

The employer had a reasonable suspicion claimant was under the influence of alcohol and it had the policy right to request claimant to submit to testing. Claimant admitted he had been drinking and offered he would fail the test.

Claimant's refusal to consent to the testing coupled with his leaving the plant facility is job abandonment that is a voluntary quit of employment. The employer gave claimant a second chance to avoid the quit if he would submit to testing. He refused even though he had been instructed earlier if he failed he would not be terminated.

DECISION:

The department decision dated March 28, 2014 reference 01 is affirmed. The claimant voluntarily quit without good cause on February 20, 2014. Benefits are denied until the claimant requalifies by working in and being paid wages for insured work equal to ten times his weekly benefit amount, provided the claimant is otherwise eligible.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/css