

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

CURTIS R STUFFLEBEEM
Claimant

TEAM STAFFING SOLUTIONS INC
Employer

APPEAL 15A-UI-05481-KCT
ADMINISTRATIVE LAW JUDGE
DECISION

OC: 04/12/15
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed an appeal from the May 1, 2015, (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on June 15, 2015 in front of Administrative Law Judge Kristin A. Collinson. Claimant participated along with his fiancé Stephanie Dixon. Employer participated through Sarah Fiedler, Human Resources Generalist.

The entire record was reviewed by Administrative Law Judge Teresa K. Hillary, including listening to the entire hearing on September 24, 2015.

ISSUE:

Did the claimant voluntarily quit his employment without good cause attributable to the employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was last assigned to work full time as a production laborer at Weingard beginning on March 3, 2014 through March 16, 2015 when he stopped working to deal with a personal medical issue. The claimant initially kept in contact with both his employer and the assignment and on April 8, 2015 his fiancé reported to the employer that he would be ready to go back to work after April 15, 2015. After April 15, 2015, the employer never heard from the claimant again. The claimant has not contacted either the employer or the assignment to ask for any additional work or to offer to return to work since his last contact on April 15.

The employer kept ongoing notes about when the claimant contacted them and what he said. Their notes were made in the regular course of business and relied upon by the employer in the conduct of their business. If the claimant had contacted the employer after April 8, the employer would have record of it. Mike McCullough, Team Staffing manager, never told the claimant on April 8 that he was discharged for being a no-call/no-show as the employer was ready to put the claimant back to work at Weingard. The employer only made money when the claimant worked. If the claimant had reported for work on April 15, continued work was available for him. The

employer considered the claimant no-call/no-show on April 15, 16, 17, thus was considered to have voluntarily quit.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left employment without good cause attributable to the employer.

Iowa Code § 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(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 § 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 § 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.

It is the duty of the administrative law judge as the trier of fact in this case, to determine the credibility of witnesses, weigh the evidence and decide the facts in issue. *Arndt v. City of LeClaire*, 728 N.W.2d 389, 394-395 (Iowa 2007). The administrative law judge may believe all, part or none of any witness's testimony. *State v. Holtz*, 548 N.W.2d 162, 163 (Iowa Ct. App. 1996). In assessing the credibility of witnesses, the administrative law judge should consider the evidence using his or her own observations, common sense and experience. *State v. Holtz*, Id. In determining the facts, and deciding what testimony to believe, the fact finder may consider the following factors: whether the testimony is reasonable and consistent with other believable evidence; whether a witness has made inconsistent statements; the witness's appearance, conduct, age, intelligence, memory and knowledge of the facts; and the witness's interest in the trial, their motive, candor, bias and prejudice. *State v. Holtz*, Id. The claimant and his fiancé were not credible witnesses. There was no reason for the employer to keep the claimant employed while he was hospitalized and then to discharge him when he was released. The employer offers the more credible testimony and evidence.

Inasmuch as the claimant failed to report for work or notify the employer for three consecutive workdays in violation of the employer policy, the claimant is considered to have voluntarily left employment without good cause attributable to the employer. Benefits are withheld.

DECISION:

The May 1, 2015, reference 01, decision is affirmed. The claimant voluntarily left 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.

Teresa K. Hillary
Administrative Law Judge for
Kristin A. Collinson

Decision Dated and Mailed

tkh/kac/css