

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

VICTOR O MORALES
Claimant

APPEAL NO. 12A-UI-03237-LT

**ADMINISTRATIVE LAW JUDGE
DECISION**

SCHENKER LOGISTICS INC
Employer

OC: 02/05/12
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed an appeal from the March 27, 2012 (reference 01) decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call on April 12, 2012. Claimant participated through interpreter, Ike Rocha. Employer participated through staffing and benefits coordinator, Janelle Johnston.

ISSUE:

Did claimant voluntarily leave the employment with good cause attributable to employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full time as a case pick operator and was separated from employment on January 30, 2012. His last day of work was January 25, 2012. He was a no call-no show for scheduled shifts on January 28, 29 and 30, 2012. Johnston tried to reach him by telephone on January 30, 2012 and was unable to reach him. She also tried to reach his emergency contact but they did not speak English and the phone was handed to the claimant and she had difficulty understanding what he was trying to say. Manager, Nikki Brick, spoke to him and asked if he had called in and he said he had not. He said he had not been hospitalized and was at home. He did not go to a doctor. He hung up after she asked him why he had not called in. Claimant knew he was required to notify the employer of his absences. Employer's policy considers an employee to have quit if they do not call to report their absence or report for work for three consecutive scheduled workdays.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant's separation from the employment was 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.

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 § 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.

An employer is entitled to expect its employees to report to work as scheduled or to be notified when and why the employee is unable to report to work. 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 March 27, 2012 (reference 01) decision is affirmed. Claimant voluntarily left the 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.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/css