

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**NICHOLAS S SEGEBART**

Claimant

**APPEAL NO. 09A-UI-18911-MT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**C J'S LUMBER & SUPPLY INC**

Employer

**OC: 11/01/09**

**Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Quit

**STATEMENT OF THE CASE:**

Claimant filed an appeal from a decision of a representative dated December 15, 2009, reference 03, which held claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on January 28, 2010. Claimant participated. Employer participated by Mark Clark, President and Stanley Meyer, Acting Yard Man.

**ISSUE:**

The issue in this matter is whether claimant quit for good cause attributable to employer.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on July 10, 2009. Claimant was deployed to the National Guard duty for the time periods July 10, 2009 through September 30, 2009 and again October 15, 2009 through October 30, 2009. Claimant went to see the employer November 5, 2009 and was told to come in for an interview November 9, 2009. Claimant instead of coming back on November 9, 2009 went and applied for unemployment.

**REASONING AND CONCLUSIONS OF LAW:**

The administrative law judge holds that the evidence has failed to establish that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship because he did not return to ask for his job back. Claimant had two opportunities to get his job back. Claimant should have come in to ask for work during his October break but failed to do so. Claimant asserts he was in but did not make a witness available who could have solved the impasse. Claimant then had a chance on November 9, 2009 to come back but instead chose to file for unemployment. This is a quit by failing to come back and ask for work when required. Benefits withheld.

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.

**DECISION:**

The decision of the representative dated December 15, 2009, reference 03, is affirmed. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.

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Marlon Mormann  
Administrative Law Judge

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Decision Dated and Mailed

mdm/css