

**IOWA WORKFORCE DEVELOPMENT  
Unemployment Insurance Appeals Section  
1000 East Grand—Des Moines, Iowa 50319  
DECISION OF THE ADMINISTRATIVE LAW JUDGE  
68-0157 (7-97) – 3091078 - EI**

**DONALD J KELLER  
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NORTH BUENA VISTA IA 52066**

**MI-T-M CORPORATION  
8650 ENTERPRISE DR  
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PEOSTA IA 52068**

**Appeal Number: 05A-UI-02069-H2  
OC: 04-16-05 R: 04  
Claimant: Appellant (1)**

**This Decision Shall Become Final**, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the February 16, 2005, reference 01, decision that denied benefits. After due notice was issued, a hearing was held in Dubuque, Iowa, on March 23, 2005. The claimant did participate. The employer did participate through Susan Haxmeier, Human Resources Manager. Employer's Exhibit One was received.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a welder full time beginning on February 2, 2002 through January 17, 2005 when he voluntarily quit his job by failing to show up for work as required. The claimant was a no-call/no-show for work on January 10, 2005. Ms. Haxmeier called the

claimant on January 11, 2005 to discover why he had not shown up for work or called in to report his absence the day before. The claimant told Ms. Haxmeier that his wife had given birth on January 10, 2005. The claimant was given time off work until January 13, 2005 when he was to return to begin his regular shift. The claimant had a history of missing work and being a no-call/no-show to work so, on January 11, 2005, Ms. Haxmeier specifically warned him that he must return to work on January 13, 2005. Thereafter, the claimant was a no-call/no-show for work on January 13, January 14 and January 17, 2005. On the afternoon of January 17, 2005, Ms. Haxmeier called the claimant at home in the early afternoon and told him he was being discharged for being a three-day no-call/no-show to work. Ms. Haxmeier had specifically warned the claimant on January 11, 2005 that he needed to report to work on January 13, 2005.

#### 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 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.

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. The claimant was specifically told on January 11, 2005 to report to work thereafter on January 13, 2005. The claimant's allegation that he called in and spoke to a supervisor is not credible in light of the employer revelation that the supervisor was the claimant's uncle. The claimant had been informed that to report his absences he needed to call the office manager and leave a voice mail. Ms. Haxmeier's testimony that she checked with the other employees to see if claimant had called in on January 13, 14, or 17 and none had heard from him is more credible. The claimant was a three-day no-call/no-show for work after specifically being warned to show up. Benefits are denied.

DECISION:

The February 16, 2005, 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.

tkh/tjc