

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**WILLIAM H RIFE**  
Claimant

**APPEAL NO. 14A-UI-06356-S2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**DM SERVICES INC**  
Employer

**OC: 05/18/14**  
**Claimant: Appellant (1)**

Section 96.5-1 - Voluntary Quit

**STATEMENT OF THE CASE:**

William Rife (claimant) appealed a representative's June 10, 2014, decision (reference 01) that concluded he was not eligible to receive unemployment insurance benefits because he voluntarily quit work with DM Services (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for July 30, 2014. The claimant participated personally. The employer participated by Rachael Ottens, Human Resource Administrator.

**ISSUE:**

The issue is whether the claimant was separated from employment for any disqualifying reason.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on March 12, 2012, as a full-time credit analyst collector. The claimant signed for receipt of the employer's handbook on March 12, 2012. The employer has a policy that an employee will be considered to have separated from employment if the employee is absent for three days without giving notice to the employer.

The claimant stopped working on January 21, 2014, to take intermittent Family Medical Leave (FMLA). The claimant needed to recertify his leave in March 2014, but he did not. On March 27, 2014, the employer notified the claimant that his absences exceeded his FMLA approved leave time. The claimant was also absent to care for his fiancée who was diagnosed with non-epileptic seizures. The fiancée could not be left alone.

The employer and claimant had many conversations about how to proceed with the claimant's employment. The employer asked the claimant if he wanted to quit work. The employer pointed out that the claimant's attendance percentage was too high and the claimant could be terminated. If the claimant quit work, the claimant could be rehired. The claimant did not want to quit work but could not return to work because of his condition and his fiancée.

The claimant knew how to properly report his absences but called the wrong number on April 2 and 8, 2014. The employer overlooked the claimant's error. On April 10, 14, and 16, 2014, the

claimant did not report his absences at all. On April 17, 2014, the employer sent the claimant a letter of separation. The employer considered the claimant to have voluntarily quit work.

The claimant was able to return to work on May 16, 2014. The claimant's medical issues would have allowed him to return to work on May 1, 2014, but he continued to care for his finance until May 16, 2014. The employer has work for the claimant but the claimant has not applied for work with the employer.

#### **REASONING AND CONCLUSIONS OF LAW:**

The administrative law judge finds the claimant voluntarily quit work without good cause attributable to the employer.

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 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.

The claimant was absent from work for three days without giving notice to the employer. The employer has a rule that if the employee is absent without notice to the employer for three days the employee is deemed to have separated from employment. The claimant is deemed to have voluntarily quit based on his absence from work for three days without giving notice to the employer. There is no evidence of good cause attributable to the employer.

#### **DECISION:**

The representative's June 10, 2014, decision (reference 01) is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times the claimant's weekly benefit amount, provided the claimant is otherwise eligible.

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Beth A. Scheetz  
Administrative Law Judge

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Decision Dated and Mailed

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