

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**TERRY R TAGUE**  
Claimant

**APPEAL NO. 11A-UI-03411-NT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OLYLMPIC STEEL IOWA INC**  
Employer

**OC: 01/16/11  
Claimant: Appellant (3)**

Section 96.5-1 - Voluntary Quit

**STATEMENT OF THE CASE:**

Claimant filed a timely appeal from a representative's decision dated March 16, 2011, reference 02, which denied unemployment insurance benefits. After due notice, a telephone hearing was held on April 11, 2011. The claimant participated personally. The employer participated by Mr. Dustin Holman, Foreman.

**ISSUE:**

At issue is whether the claimant quit employment with good cause attributable to the employer.

**FINDINGS OF FACT:**

Having considered the evidence in the record, the administrative law judge finds: Terry Tague was employed by Olympic Steel Iowa Inc. from September 2010 until January 21, 2011 when he voluntarily quit employment. Mr. Tague worked as a full-time shop helper and was paid by the hour. His immediate supervisor was Dustin Holman.

Mr. Tague left his employment with Olympic Steel Iowa Inc. during the early morning hours of January 21, 2011 rather than take a drug test. The claimant's immediate supervisor had a reasonable suspicion that Mr. Tague and another employee were smoking a controlled substance during an early morning break. Mr. Holman had suspicions of this activity based upon complaints made by other workers. The supervisor had observed and visited with Mr. Tague and the other employee prior to break time and then made a point to interact with them following the break. The supervisor noted that Mr. Tague's eyes were bloodshot, that he seemed to have lost concentration and also noted a strong odor of a cologne-like substance that Mr. Holman felt was being used to mask the smell of marijuana. Because of their conduct and the supervisor's reasonable suspicions, the employees were informed that they would be required to take a drug screen per company policy. Both individuals initially agreed. Subsequently the other employee declined to be tested and Mr. Tague followed suit and also declined to be tested specifically indicating that he was quitting employment.

Because of concern that Mr. Tague or the other employee might be impaired, the supervisor arranged a ride home for both individuals. During an extended period of time while waiting for the rides, Mr. Holman remained with both Mr. Tague and the other worker. Neither complained that they were being discharged unjustifiably or indicated in any manner that they were being

discharged instead of quitting employment. Mr. Tague did not go to company offices on the following day to complain that he had been unjustifiably discharged.

It is the claimant's position that he was discharged by the company and did not quit, that he was given no reason for his termination and that he was willing to be drug tested.

**REASONING AND CONCLUSIONS OF LAW:**

The question before the administrative law judge is whether the evidence in the record is sufficient to conclude that the claimant left employment and was not discharged. It is.

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.

In this matter the employer's witness testified with specificity about the events leading up to the decision to have Mr. Tague and another worker drug tested. Mr. Holman further testified with specificity as to Mr. Tague's statements and conduct when the claimant chose to quit employment rather than to be tested. The administrative law judge thus finds the employer's witness to be credible and finds that his testimony is not inherently improbable.

The question then becomes whether the claimant left employment with good cause attributable to the employer. Although Mr. Tague maintains that he quit employment ostensibly because he had been transferred from job to job, the administrative law judge notes that the claimant did not make any statements of that nature to his employer at the time that he quit employment during the early morning hours of January 21, 2011 and that the evidence in the record shows that the claimant's decision to quit was based upon his reluctance to take a required drug screening for cause. The claimant has not established good cause for leaving. Benefits are denied.

**DECISION:**

The representative's decision dated March 16, 2011, reference 02, is affirmed as modified. The portion of the decision disqualifying the claimant from receiving benefits until he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount and meets all other eligibility requirements of Iowa law is affirmed. The portion of the determination finding that the claimant was discharged is modified to find that the claimant quit employment without good cause attributable to the employer.

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Terence P. Nice  
Administrative Law Judge

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Decision Dated and Mailed