

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ANGEL ORTIZ**  
Claimant

**APPEAL NO. 08A-UI-02023-NT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**BERTCH CABINET MFG INC**  
Employer

**OC: 12/23/07 R: 03  
Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Quit  
Section 96.6-2 – Timeliness of Appeal

**STATEMENT OF THE CASE:**

Angel Ortiz appealed a representative's decision dated February 4, 2007, reference 06, which denied benefits based upon his separation from Bertch Cabinet Manufacturing, Inc. After due notice was issued, a hearing was held by telephone on March 13, 2008. Mr. Ortiz participated personally. The employer participated by Mitzi Tann, Human Resources Director, and Todd Evens, Supervisor.

**ISSUE:**

The issue in this matter is whether the claimant quit for good cause attributable to the employer and whether the claimant's appeal is timely.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: The claimant worked for this employer from November 12, 2007 until December 19, 2007 when he discontinued reporting for work. Mr. Ortiz was employed as a finishing apprentice on a full-time basis and was paid by the hour. The claimant did not report for work on three consecutive work days and provided no notification to the employer. Mr. Ortiz did not return to available employment. Based upon the claimant's absence and his failure to return, the employer reasonably concluded the claimant had quit employment.

**REASONING AND CONCLUSIONS OF LAW:**

The question for the administrative law judge is whether the evidence establishes that the claimant quit employment for reasons that were attributable to the employer. It does not. The claimant's appeal in this matter was beyond the ten day statutory time limit due to a language barrier and confusion regarding the number of representative's decisions that the claimant had received. The administrative law judge concludes that the claimant has established good cause for late filing.

The evidence in this matter establishes that the claimant did not report for scheduled work on three or more consecutive work days and did not provide notification to the employer as required by company policy and as indicated to employees during orientation. After the claimant had not reported to work for an extended period of time and provided no notification to the employer, and did not return, the employer reasonably concluded the claimant had voluntarily quit his employment.

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.

For the above-stated reasons, the administrative law judge concludes that the claimant voluntarily quit without good cause. Unemployment insurance benefits are withheld.

**DECISION:**

The representative's decision dated February 4, 2008, reference 06, is hereby affirmed. The claimant voluntarily quit employment without good cause. Unemployment insurance benefits are withheld until the claimant has worked in and been paid wages for insured work equal to ten times the claimant's weekly benefit amount, provided that he meets all other eligibility requirements of Iowa law.

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Terence P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

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