

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CRAIG D SMITH
Claimant

APPEAL NO. 13A-UI-04166-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ACKERMAN INVESTMENT OC
Employer

OC: 03/03/13
Claimant: Appellant (1)

Section 96.5(1) – Quit

STATEMENT OF THE CASE:

The claimant, Craig Smith, filed an appeal from a decision dated March 29, 2013, reference 01. The decision disqualified him from receiving unemployment benefits. After due notice was issued a hearing was held by telephone conference call on May 14, 2013. The claimant participated on his own behalf. The employer, Ackerman Investments, participated by General Manager Bryan Bocken, Assistant General Manager Scott Galyen and was represented by Stuart Cochrane. Exhibit One was admitted into the record.

ISSUE:

The issue is whether the claimant quit work with good cause attributable to the employer.

FINDINGS OF FACT:

Craig Smith was employed by Ackerman from May 13, 2012 until March 1, 2013 as a part-time cook. His last day of work was February 19, 2013. He was not scheduled February 20 and 21, 2013. On February 22, 2013, he texted Assistant General Manager Scott Galyen to say he would be late due to a family matter. Later he texted to say the situation was more serious than he thought and would not be in.

After that he did not contact the employer or come to work for the next five scheduled days. On March 1, 2013, he texted again to ask if he still had a job and was told the five days of no-call/no-show meant he was considered to have abandoned his job.

Mr. Smith did not come to work those five days because his son had been suspended from school for a week and there was no one else available to supervise him during that time. He did not contact the employer to find out when he was scheduled to work or to report his absences.

REASONING AND CONCLUSIONS OF LAW:

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.

The claimant is considered a voluntary quit by operation of law. He was no-call/no-show to work for five days in a row, mostly due to lack of child care for his son who had been suspended. Mr. Smith did not leave any voice mail messages for Mr. Galyen asking him to call back and he did not contact friends or co-workers to find out when he was scheduled. Whatever his reason for missing work Mr. Smith was still obliged to notify the employer of his absences and he failed to do so. This is a voluntary quit without good cause attributable to the employer and the claimant is disqualified.

DECISION:

The representative's decision of March 29, 2013, reference 01, is affirmed. Craig Smith is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount in insured work, provided he is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/pjs