

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JOSEPH L KEARNEY
Claimant

APPEAL NO. 11A-UI-14973-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CENTRAL IOWA HOSPITAL CORP
Employer

**OC: 10/16/11
Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed a timely appeal from a representative's decision dated November 17, 2011, reference 02, which denied unemployment insurance benefits. After due notice, a telephone hearing was held on January 5, 2012. Claimant participated. Employer participated by Amanda Banks and Linn Wilson, Supervisor.

ISSUE:

The issue is whether the claimant left employment with good cause attributable to the employer.

FINDINGS OF FACT:

Having considered all of the evidence in the record, the administrative law judge finds: Joseph Kearney was employed by Central Iowa Hospital Corporation from June 2010 until October 20, 2011 when he voluntarily quit employment. Mr. Kearney worked as a full-time cook and was paid by the hour. His immediate supervisor was Ms. Linn Wilson.

On October 19, 2011, Mr. Kearney was given permission to temporarily leave work to pick up his automobile at a repair facility. The claimant was authorized to leave at 6:30 p.m. and was expected to return for the remainder of his shift. Mr. Kearney left worked at 5:30 p.m. and did not return to the facility nor provide any notification to his employer to inform them that he would not be returning as expected.

The next day when Mr. Kearney reported to work, he was informed that the company's human resource department planned to review his conduct. Mr. Kearney anticipated that he would be discharged and left employment with the intention not to return prior to the end of his work shift. Work continued to be available to the claimant at the time of his leaving.

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 § 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(28) 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 § 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 § 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:

(28) The claimant left after being reprimanded.

The employer has the burden of proving that the voluntary leaving was for good cause attributable to the employer. See Iowa Code § 96.6(2). An individual who voluntarily leaves employment must first give notice to the employer of the reasons for quitting in order to give the employer an opportunity to address or resolve the complaint. Cobb v. Employment Appeal Board, 506 N.W.2d 445 (Iowa 1993).

In this case the claimant left employment in anticipation that he would receive a reprimand or that he might be discharged because he had failed to return to work the previous day after being given permission to temporarily leave to pick up his car from a repair facility. The claimant had not returned or provided any notification to the employer and was informed that the company's human resource department was considering the matter. No decision on the claimant's continuing employment had been made at the time that Mr. Kearney decided to leave employment without advanced notice to the hospital.

Good cause for leaving attributable to the employer has not been established. Unemployment insurance benefits are withheld.

DECISION:

The representative's decision dated November 17, 2011, reference 02, is affirmed. Claimant left employment without good cause attributable to the employer. Unemployment insurance benefits are withheld until the claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, and is otherwise eligible.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs