

**IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI**

**DAVID L JANETT
PO BOX 95
VAIL IA 51465**

**MYMK CORPORATION INC
1113 TOLEDO AVE
DUNLAP IA 51529**

**Appeal Number: 05A-UI-06180-HT
OC: 05/15/05 R: 01
Claimant: Appellant (1)**

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5(1) - Quit

STATEMENT OF THE CASE:

The claimant, David Janett, filed an appeal from a decision dated May 31, 2005, reference 01. The decision disqualified him from receiving unemployment benefits. After due notice was issued a hearing was held by telephone conference call on June 29, 2005. The claimant participated on his own behalf. The employer, MYMK Corporation (MYMK) participated by Owner Kevin McKeown and Veterinary Technician Julie Dieber.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: David Janett was employed by MYMK from September 2001 until May 17, 2005. He was a full-time veterinary assistant. On April 1, 2005,

one company had split into two separate business entities. Owner Dr. Kevin McKeown told his assistants, Mr. Janett and Julie Dieber, that he would try to get them their accumulated vacation pay from the other company.

On Friday, May 13, 2005, Mr. Janett confronted Dr. McKeown with a demand for six weeks of vacation pay. The employer told him he did not believe that was accurate and that the claimant should check with Iowa Workforce Development if he had any questions. Mr. Janett left the office 15 minutes after his scheduled start time and did not return that day. He was no-call/no-show for his Saturday, May 14, 2005, shift, as well as Monday, May 16 and Tuesday May 17, 2005.

The claimant did call and talked to the employer on May 17, 2005, at which time he was asked to bring in his key. He was considered a voluntary quit, as he had been absent from work for three days.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant is disqualified. The judge concludes he 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.

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.

The claimant left his work without permission from his supervisor. He was also absent the next three days without properly notifying anyone of his absence. The administrative law judge does not find the claimant credible when he stated he had not come in to work under the instructions of the employer not to return until he had worked things out with the bookkeeper regarding his vacation. Under the provisions of the above Administrative Code section, three days of no-call/no-show is considered a voluntary quit without good cause attributable to the employer. He is disqualified.

DECISION:

The representative's decision of May 31, 2005, reference 01, is affirmed. David Janett is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount provided he is otherwise eligible.

bgh/kjw