

**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**

**LLOYD T EDSILL
425 PINE ST APT 2
WATERLOO IA 50703**

**KAISER CONTRACT CLEANING
SPECIALISTS INC
PO BOX 340
KIELER WI 53812**

**Appeal Number: 05A-UI-01865-JTT
OC: 01/09/05 R: 03
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)(a) – Voluntary Quit

STATEMENT OF THE CASE:

Lloyd Edsill filed a timely appeal from the February 10, 2005, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on March 9, 2005. Mr. Edsill participated in the hearing. The employer participated through Rick Moya, Area Manager.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Lloyd Edsill was employed by Kaiser Contract Cleaning Specialists (Kaiser) as a full-time sanitation worker from November 8, 2003 until November 30, 2004, when he ceased appearing for work. Mr. Edsill worked third-shift, 12:00 a.m. to 7:30 a.m., Monday through Friday. Mr. Edsill did not appear for work for 17 days during the period of November 30 through December 17, because

he was incarcerated in the Black Hawk County Jail. After that absence, Mr. Edsill assumed he had been automatically terminated and did not report to work.

The employer has a written attendance policy set forth in an employee handbook. Mr. Edsill received a copy of the handbook on November 3 or 4, 2003. Under the attendance policy, employees are allowed to miss up to five days within a three-month period before they will be subject to progressive discipline.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence in the record establishes that Mr. Edsill's voluntary quit was for good cause attributable to the employer. It does not.

A claimant is disqualified for benefits if he has left work voluntarily without good cause attributable to the employer. See Iowa Code section 96.5(1). The claimant has the burden of proof in cases involving quits. See Iowa Code section 96.6-2. In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980) and Peck v. EAB, 492 N.W.2d 438 (Iowa App. 1992). A claimant is deemed to have left the employment without good cause attributable to the employer if the claimant becomes incarcerated. See 871 IAC 24.25-16.

The evidence in the record establishes that Mr. Edsill's absence from work was due to his 17-day incarceration. His quit was, therefore, not for good cause attributable to the employer. Accordingly, Mr. Edsill is disqualified from receiving benefits until he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

DECISION:

The representative's decision February 10, 2005, reference 01, is affirmed. The claimant is disqualified from receiving benefits until he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

jt/kjf