

During the course of his employment Mr. Harris had many occurrences of absenteeism, tardiness, and giving false reasons for his absences. He was no-call/no-show to work on Sunday, September 18, 2005, and was suspended by Store Manager Philip Franzen on Monday, September 19, 2005. Mr. Franzen told the claimant he was on suspension for three days and was to call on Wednesday, September 21, 2005, to find out when he was to work on the next day. However, Mr. Harris never called the store manager, and after failing to return to work, he was considered a voluntary quit.

Kyle Harris filed a claim for unemployment benefits with an effective date of September 18, 2005. The records of Iowa Workforce Development indicate no benefits have been paid as of the date of the hearing.

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.

The claimant was not discharged, merely suspended for three days because of excessive absenteeism and being no-call/no-show to work. Continuing work was still available to him at the end of the suspension period, but he failed to contact the employer as required or to return to work. This must be considered a voluntary quit. As the claimant did not participate, the administrative law judge can only assume his decision to quit was based on the fact of the disciplinary action against him for his attendance problems. This is not good cause attributable to the employer under the provisions of 871 IAC 24.25(28). The claimant is disqualified.

DECISION:

The representative's decision of October 12, 2005, reference 01, is reversed. Kyle Harris is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount provided he is otherwise eligible.

bgh/kjw