

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

---

**JULIE A BURR**  
Claimant

**ROCK COMMUNICATIONS LLC**  
Employer

**APPEAL 15A-UI-05212-KC-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 04/12/15**  
**Claimant: Appellant (1)**

---

Iowa Code § 96.5(1) – Voluntary Quitting  
Iowa Code § 96.5(2)a – Discharge for Misconduct

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the April 23, 2015, (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on June 8, 2015. The claimant participated. The employer participated through Vilene Savage.

**ISSUE:**

Was the claimant discharged due to disqualifying, work-related misconduct or did she voluntarily quit without good cause attributable to the employer?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed full time as a stacker from August 13, 2014, and was separated from employment on March 16, 2015 when she missed her scheduled shift because she was incarcerated and her incarceration continued until April 8, 2015. Subsequently, the employer also told the claimant that her position was terminated on March 24, 2015.

The claimant last worked on March 12, 2015. Her next scheduled workday was March 16, 2015. The claimant knew in advance that she had to go to jail but she was unsure of the precise date. She informed her employer that she could be incarcerated for up to 30 days. She applied for but did not receive a work release from the judge. The employer had provided information for the work release application. She was not able to call the courthouse on March 16, 2015 to inform the employer that she did not get the work release. The claimant was in jail from March 16, 2015 until April 8, 2015. She asked her boyfriend David Walls to call the employer to tell them her status. On March 23, 2015, Walls spoke with her employer's representative and told her that claimant was still not eligible for work release and provided the claimant's release date. He understood from the employer that she could reapply for work upon release. On March 24, 2015, the employer discharged her from work and called the jail to inform of her of that. On April 10, 2015, the claimant spoke with Savage about returning to work. Savage advised her to apply online. She was later told to wait one year.

The claimant's employment was terminated due to her unavailability for work while she was in jail. The claimant was not informed that the employer would keep her job open for an indefinite period of time during her incarceration. The employer understood that she would obtain a work release and resume work. That did not happen during the claimant's incarceration.

#### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes claimant's separation from the employment was 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.

Iowa Admin. Code r. 871-24.25(16) 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:

(16) The claimant is deemed to have left if such claimant becomes incarcerated.

In the context of the Iowa Employment Security Law, an individual who separates from employment because of incarceration is presumed to have quit without good cause attributable to the employer. 871 IAC 24.25(16). The claimant's incarceration on numerous scheduled workdays, during the period of March 16, 2015 until April 8, 2015, was not a good-cause reason for the separation attributable to the employer based upon a voluntary leaving of employment. Even had the employer not fired the claimant during her incarceration, but considered the absences as a voluntary leaving of employment, it would be considered a disqualifying separation without good cause attributable to the employer as an employer is not expected to hold employment for incarcerated employees regardless of prior warning or attendance history.

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2).

While claimant's leaving the employment may have been based upon good personal reasons, including her required incarceration, it was not for a good-cause reason attributable to the employer according to Iowa law. Benefits must be denied.

**DECISION:**

The April 23, 2015 (reference 01) decision is affirmed. The claimant left employment without good cause attributable to the employer. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

---

Kristin A. Collinson  
Administrative Law Judge

---

Decision Dated and Mailed

kac/css