

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KAREN S CHRISTOFFERSON
Claimant

APPEAL NO. 13A-UI-09211-VS

**ADMINISTRATIVE LAW JUDGE
DECISION**

ALLSTEEL INC
Employer

OC: 07/14/13
Claimant: Appellant (5)

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

The claimant filed an appeal from a representative's decision dated August 6, 2013, reference 01, which held that the claimant was ineligible for unemployment insurance benefits. After due notice, an in-person hearing was held on October 2, 2013, in Davenport, Iowa. The claimant participated personally. The employer participated by Emily Bennett, Community Relations Generalist. The employer was represented by Deniece Norman. The record consists of the testimony of Karen Christofferson; the testimony of Emily Bennett; Claimant's Exhibits A-Y; and Employer's Exhibits 1-10.

ISSUE:

Whether the claimant voluntarily left for good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witnesses and having considered all of the evidence in the record, makes the following findings of fact:

The employer manufactures office furniture at its facility in Muscatine, Iowa. The claimant was hired on September 1, 2003, as a full-time work cell operator. The claimant was a no-call/no-show on June 21, 2013; June 24, 2013; and June 25, 2013. She was considered a voluntary quit as a result of having three consecutive days of no-call/no-show. The employer has a policy, of which the claimant was aware, that three consecutive days of no-call/no-show would be considered a voluntary quit by the employer.

REASONING AND CONCLUSIONS OF LAW:

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.

A quit is a separation initiated by the employee. 871 IAC 24.1(113)(b). 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 698, 612 (Iowa 1980) and Peck v. EAB, 492 N.W.2d 438 (Iowa App. 1992). 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. See 871 IAC 24.25.

The claimant is not eligible for unemployment insurance benefits. The evidence is uncontroverted that there were three consecutive days of no-call/no-show. The claimant admitted that she did not call. Her excuse for not calling was that she was waiting for a supervisor to call her. There is no credible evidence that the claimant called a supervisor prior to the three days of no-call/no-show. Even if she did make this call, she did not call for three consecutive days. This is considered a voluntary quit under Iowa law and is without good cause attributable to the employer.

DECISION:

The decision of the representative dated August 6, 2013, reference 01, is modified with no effect. Unemployment insurance benefits shall be withheld until the claimant had worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Vicki L. Seeck
Administrative Law Judge

Decision Dated and Mailed

vls/css