

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MICHELE R JENSEN
Claimant

APPEAL NO. 11A-UI-06694-H

**ADMINISTRATIVE LAW JUDGE
DECISION**

**DES MOINES IND COMMUNITY SCH
DIST**
Employer

**OC: 04/17/11
Claimant: Appellant (1)**

Section 96.5(1) – Quit

STATEMENT OF THE CASE:

Michele Jensen filed an appeal from a decision dated May 9, 2011, reference 01. The decision disqualified her from receiving unemployment insurance benefits. After due notice was issued, a hearing was held in Des Moines, Iowa on June 20, 2011. The claimant participated on her own behalf. Des Moines Independent Community School District participated by Risk Manager Cathy McCay.

ISSUE:

The issue is whether the claimant quit with good cause attributable to the employer.

FINDINGS OF FACT:

Michele Jensen was employed by Des Moines Independent School District from October 16, 2010 until March 25, 2011 as a full-time special ed associate. She received updated copies of the employee handbook as they were issued, the most recent one being September of 2010.

The handbook's policy calls for each employee to properly notify the school district of any unscheduled absences. This is done by calling an automated system which asks numerous questions. Both the automated system as well as the written policy, notify employees if they do not wait to get an ID number, or proof that they did call in and report their absence, the absence will be considered unreported.

The claimant was a no-call/no-show to work on March 21, 22, 23, 24, and 25, 2011. She maintained that she called in but did not wait for the ID number, although she had done so in the past. The employer's records of the automated system do not show any phone calls made by Ms. Jensen on any of those days.

Under the provisions of the policy, the claimant was considered a voluntary quit for being three consecutive days no-call/no-show to work.

REASONING AND CONCLUSIONS OF LAW:

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.

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 § 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:

(4) The claimant was absent for three days without giving notice to employer in violation of company rule.

Claimant was a no-call/no-show to work for five consecutive days in March 2011. She did not properly report the absences because she did not wait for the identification number and there is, therefore, no proof that any phone call was actually made. She is, therefore, considered a no-call/no-show to work. Under the provisions of the above administrative code section this is a voluntary quit without good cause attributable to the employer and the claimant is disqualified.

DECISION:

The representative's decision of May 9, 2011, reference 01, is affirmed. Michele Jensen is disqualified and benefits are withheld until she has requalified by earning ten times her weekly benefit amount, provided she is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs