

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**HERLINDA L COBOS**

Claimant

**APPEAL NO: 12O-UI-06844-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**SCHENKER LOGISTICS INC**

Employer

**OC: 02/05/12**

**Claimant: Appellant (1/R)**

Iowa Code § 96.5(1) – Voluntary Quit

**PROCEDURAL STATEMENT OF THE CASE:**

The claimant appealed a representative's March 15, 2012 determination (reference 01) that disqualified her from receiving benefits and held the employer's account exempt from charge because she voluntarily quit her employment for reasons that do not qualify her to receive benefits. A hearing was held on April 4, 2012. The claimant participated at the hearing, but the employer did not. Based on the claimant's testimony, an administrative law judge decided the claimant had been discharged for non-disqualifying reasons and held her qualified to receive benefits. See decision for appeal 12A-UI-02768-NT.

The employer appealed the administrative law judge's decision. The Employment Appeal Board remanded this matter for a new hearing because the employer did not receive the hearing notice. Hearing notices were again mailed to each party for a July 10, 2012 hearing. The claimant did not respond to the hearing notice or participate in this hearing. Janelle Johnston appeared on the employer's behalf. Based on the evidence presented at the July 10 hearing, the employer's arguments of the parties, and the law, the administrative law judge concludes the claimant is not qualified to receive benefits, because she abandoned her employment.

**ISSUE:**

Did the claimant voluntarily quit her employment for reasons that qualify her to receive benefits or did the employer discharge her for reasons constituting work-connected misconduct?

**FINDINGS OF FACT:**

The claimant started working full-time for the employer in June 2009. The claimant worked as a forklift operator. The employer's attendance policy informs employees that if they are unable to work as scheduled, they should notify the employer an hour before their scheduled shifts. If an employee accumulates ten attendance points, they are subject to termination. The employer's policy also informs employees that if they do not call or report for three consecutive days, the employer considers the employees to have voluntarily quit by abandoning their employment. An employee receives two attendance points when they do not call or report to work as scheduled.

The claimant had an attendance issue. She had accumulated 13 points as of January 17, but the employer was working with her. The last day the claimant worked was January 17, 2012. She was next scheduled to work on January 24. She did not call or report to work on January 24, 25, and 28. The employer considered the claimant to have abandoned her job as of January 28, when she again did not call or report to work.

The claimant established a claim for benefits the week of February 5, 2012.

**REASONING AND CONCLUSIONS OF LAW:**

A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quit her employment without good cause attributable to the employer or an employer discharges her for reasons constituting work-connected misconduct. Iowa Code §§ 96.5(1), (2)a. Based on the evidence presented during the July 10 hearing, the claimant voluntarily quit her employment by abandoning it. When a claimant quits, she has the burden to establish she quit for reasons that qualify her to receive benefits. Iowa Code § 96.6(2).

The claimant may have had personal reasons for failing to return to work after July 17. Since the claimant did not participate at the hearing, her reasons for not going back to work after January 17 are not known. The evidence presented at the July 10 hearing does not establish that she quit for reasons that qualify her to receive benefits.

An issue of overpayment will be remanded to the Claims Section to determine.

**DECISION:**

The representative's March 15, 2012 determination (reference 01) is affirmed. The claimant voluntarily quit her employment, but the evidence does not establish that she quit for reasons that qualify her to receive benefits. The claimant is disqualified from receiving unemployment insurance benefits as of February 5, 2012. This disqualification continues until she has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The employer's account will not be charged. An issue of overpayment of benefits the claimant may have received since February 5, 2012, is **Remanded** to the Claims Section to determine.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/kjw