

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CAROLYN MOORE
Claimant

APPEAL NO: 12A-UI-12851-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ADVANCE SERVICES
Employer

OC: 09/30/12
Claimant: Respondent (2)

Iowa Code § 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Advance Services, Inc. (employer) appealed an unemployment insurance decision dated October 24, 2012, reference 02, which held that Carolyn Moore (claimant) was eligible for unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on November 26, 2012. The claimant participated in the hearing. The employer participated through Michael Payne, Loss Prevention Specialist. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

The issue is whether the claimant's voluntary separation from employment qualifies her to receive unemployment insurance benefits.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired as a temporary employee on September 16, 2011. At the time of hire, she signed an availability statement that advised her of the requirement to check in for additional work after the completion of an assignment. The employer requires employees to check in within three working days after an assignment ends to provide the employer notification of the claimant's availability and failure to do so would be considered as a voluntary quit. The claimant was given a copy of the availability statement, which is not part of the application or contract of employment.

The claimant's last assignment was with Adidas and it ended on October 10, 2011. She requested additional work and accepted an assignment at Linnco on October 14, 2011. The claimant was scheduled to start work on October 17, 2011 but failed to call or report to work. The employer attempted to reach her on October 18, 2011 but was unsuccessful. The claimant called the employer on November 28, 2011 for a statement of earnings.

The claimant contends she last worked for the employer in October 2012 but the employer's records confirm her last paycheck was issued on October 21, 2011 from her work with Adidas.

She admitted during the hearing that she was told she could not return to work because she did not go to the last job they sent her out to.

The claimant filed a claim for unemployment insurance benefits effective October 24, 2012 but has not received benefits after the separation from employment.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant's voluntary separation from employment qualifies her to receive unemployment insurance benefits. She is not qualified to receive unemployment insurance benefits if she voluntarily quit without good cause attributable to the employer. Iowa Code § 96.5-1.

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980) and *Peck v. Employment Appeal Bd.*, 492 N.W.2d 438 (Iowa Ct. App. 1992). The claimant demonstrated her intent to quit and acted to carry it out by failing to report for a job assignment on October 17, 2011. She admitted she did not go to the last job they sent her out to but failed to offer an explanation.

It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify her. Iowa Code § 96.6-2. She has not satisfied that burden and benefits are denied.

DECISION:

The unemployment insurance decision dated October 24, 2012, reference 02, is reversed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until she has worked in and has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. There is no overpayment as a result of this decision.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/pjs