

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ALISHA R WHENNEN**  
Claimant

**APPEAL NO. 06A-UI-09895-S2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**TENCO INDUSTRIES INC**  
Employer

**OC: 09/03/06 R: 03  
Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Quit  
Section 96.4-3 – Able and Available

**STATEMENT OF THE CASE:**

Alisha Whennen (claimant) appealed a representative's October 3, 2006 decision (reference 01) that concluded she was not eligible to receive unemployment insurance benefits because she had voluntarily quit employment with Tenco Industries (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on October 24, 2006. The claimant participated personally. The employer participated by Joanie Lundy, Human Resources Coordinator.

**ISSUE:**

The issue is whether the claimant voluntarily quit work without good cause attributable to the employer and whether she is able and available for work.

**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 on May 8, 2006, as a full-time program instructor. The claimant has suffered from stress headaches over the past few years.

The claimant had trouble fitting in and had a personality conflict with three of her four co-workers. On August 28, 2006, she became a full-time student in addition to being a working mother of two. The employer told the claimant she could not study at work. The claimant quit work on September 1, 2006. Continued work was available had the claimant not resigned.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow the administrative law judge concludes the claimant voluntarily quit work without good cause attributable to the employer and is not able and available for work.

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(21) 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:

- (21) The claimant left because of dissatisfaction with the work environment.

A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980). The claimant's intention to voluntarily leave work was evidenced by her words and actions. She told the employer that she was leaving and quit work. When an employee quits work because she is dissatisfied with the work environment, her leaving is without good cause attributable to the employer. The claimant left work because she did not like her work environment. Her leaving was without good cause attributable to the employer. The claimant voluntarily quit without good cause attributable to the employer. Benefits are denied.

871 IAC 24.23(5) provides:

- (5) Full-time students devoting the major portion of their time and efforts to their studies are deemed to have no reasonable expectancy of securing employment except if the students are available to the same degree and to the same extent as they accrued wage credits they will meet the eligibility requirements of the law.

When a claimant is a full-time student she is deemed not to be available for work. The claimant is a full-time student. The claimant is disqualified from receiving unemployment insurance benefits because she is not available for work with another employer.

**DECISION:**

The representative's October 3, 2006 decision (reference 01) is affirmed. 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. In addition, the claimant is disqualified from receiving unemployment insurance benefits because she is not available for work with another employer.

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Beth A. Scheetz  
Administrative Law Judge

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Decision Dated and Mailed

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