

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

NATALIE I FORMANEK Claimant 3M COMPANY Employer	68-0157 (9-06) - 3091078 - EI APPEAL NO. 18A-UI-12161-S1-T ADMINISTRATIVE LAW JUDGE DECISION OC: 12/02/18 Claimant: Appellant (1)
--	---

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Natalie Formanek (claimant) appealed a representative's December 17, 2018, decision (reference 01) that concluded she was not eligible to receive unemployment insurance benefits because she voluntarily quit work with 3M Company (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for January 8, 2019. The claimant participated personally. The employer participated by Megan Welch, Human Resources Supervisor.

ISSUE:

The issue is whether the claimant was separated from employment for any disqualifying reason.

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 September 13, 2017, as a full-time warehouse operator. She was absent without report for her shift on September 6, 2018, due to her arrest and incarceration. On September 7, 2018, the claimant reported early for her shift and spoke with her supervisor. The claimant asked her supervisor about the likelihood of her termination. The supervisor told the claimant that there would be a meeting of management the following day. The supervisor did not make termination decisions but he thought she had a ninety-five percent chance of being terminated. The claimant told the supervisor she wanted to resign. On September 7, 2018, the claimant prepared a written notice of separation, effective immediately. She resigned because she did not want to chance being fired. 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.

Iowa Code section 96.5(1) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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.

Iowa Admin. Code r. 871-24.25(33) 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:

(33) The claimant left because such claimant felt that the job performance was not to the satisfaction of the employer; provided, the employer had not requested the claimant to leave and continued work was available.

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. When an employee quits work because she believes her performance is not to the satisfaction of the employer and the employer has not requested her to leave, her leaving is without good cause attributable to the employer. The claimant left work because she thought her attendance issues would result in her termination even though the employer did not request her to leave. Her leaving was without good cause attributable to the employer. The claimant voluntarily quit without good cause attributable to the employer. Benefits are denied.

DECISION:

The representative's December 17, 2018, decision (reference 01) is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times the claimant's weekly benefit amount provided the claimant is otherwise eligible.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/rvs