

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**CARRIE O HARRIMAN**  
Claimant

**APPEAL NO. 13A-UI-08981-NT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**D OF S FOODS INC**  
Employer

**OC: 06/30/13**  
**Claimant: Appellant (1)**

Section 96.5-1 - Voluntary Quit

**STATEMENT OF THE CASE:**

Claimant filed a timely appeal from a representative's decision dated July 30, 2013, reference 02, which denied unemployment insurance benefits finding that she voluntarily left employment without good cause. After due notice was provided, a telephone hearing was held on September 10, 2013. The claimant participated. The employer participated by Ms. Karla Shedd, Human Resource Generalist. Claimant's Exhibit One and Employer's Exhibits A and B were received into evidence.

**ISSUE:**

At issue is whether the claimant left employment with good cause attributable to the employer.

**FINDINGS OF FACT:**

Having considered the evidence in the record, the administrative law judge finds: Carrie Harriman was employed by D of S Foods, Inc. from March 28, 2012 until March 26, 2013 when she voluntarily left employment. Ms. Harriman worked at the captioned employer, doing business as McDonald's, as a full-time crewmember and was paid by the hour. Her immediate supervisor was Amy Tichy.

On March 21, 2013, Ms. Harriman gave her written notice of quitting to be effective April 4, 2013. On that date the claimant had been called into the office, questioned about the amount of time that she was missing work. Ms. Harriman had been absent on a number of occasions because she had been ill and visiting doctors about her condition.

At the time of giving her two-week notice, Ms. Harriman stated that she had accepted a new job offer and was to begin the new employment.

Although the claimant had not been told that she was going to be discharged from her employment or given a final warning, Ms. Harriman "assumed" that she was terminated the next day when Ms. Harriman was ill and did not report to work. The claimant did not provide notice to the employer that she would be absent that day. Ms. Harriman did not report again to work

and the employer reasonably concluded that the claimant had quit her employment with the company.

Later Ms. Harriman was diagnosed as having a serious viral condition at the timeframe in question.

### **REASONING AND CONCLUSIONS OF LAW:**

The first question before the administrative law judge is whether the evidence in the record establishes that the claimant was discharged or quit her employment. The evidence clearly establishes that Ms. Harriman chose to quit her employment although work continued to be available to her.

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.

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code section 96.6(2). An individual who voluntarily leaves their employment must first give notice to the employer of the reason for quitting in order to give the employer an opportunity to address or resolve the complaint. Cobb v. Employment Appeal Board, 506 N.W.2d 445 (Iowa 1993).

871 IAC 24.25(28) 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:

- (28) The claimant left after being reprimanded.

In the matter at hand Ms. Harriman tendered her resignation after receiving a warning about her attendance. Although the claimant had medical documentation supporting her need to be absent for illness, she nonetheless believed that she might be discharged for attendance in the future although she had not received a final warning from her employer. After providing a written two-week notice of quitting, Ms. Harriman discontinued reporting to work or providing any notification to the employer to lead to the reasonable conclusion that she had quit her job.

Although sympathetic to the claimant's situation, the administrative law judge concludes that leaving one's employment in anticipation of being discharged in the future is not a good-cause reason attributable to the employer. It appears that Ms. Harriman became upset when she was counseled about her attendance and did not report back to available employment. Good cause

leaving attributable to the employer has not been shown. Unemployment insurance benefits are withheld.

**DECISION:**

The representative's decision dated July 30, 2013, reference 02, is affirmed. The claimant left employment without good cause attributable to the employer. Unemployment insurance benefits are withheld until the claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount and is otherwise eligible.

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Terence P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

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