

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ALONDA S TRIPP
Claimant

APPEAL NO. 09A-UI-10619-VST

**ADMINISTRATIVE LAW JUDGE
DECISION**

TEMP ASSOCIATES
Employer

OC: 08/31/08
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated July 24, 2009, reference 04, which held claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on August 12, 2009. Employer participated by Jennifer Starr, account manager. Claimant failed to respond to the hearing notice and did not participate. The record consists of the testimony of Jennifer Starr.

ISSUE:

Whether the claimant voluntarily left for good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witness and having considered all of the evidence in the record, makes the following findings of fact:

The employer is a temporary employment agency. On December 17, 2008, the claimant was given a long term assignment at one of the employer's clients. On June 18, 2009, the client had a shut down, but the claimant was scheduled to work on July 6, 2009; July 10, 2009; July 11, 2009; and July 12, 2009. The claimant failed to show up for work. She did not notify her employer that she would be absent in violation of the employer's written policy. The claimant was aware of that policy.

REASONING AND CONCLUSIONS OF LAW:

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(4) 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:

(4) The claimant was absent for three days without giving notice to employer in violation of company rule.

A quit is a separation initiated by the employee. 871 IAC 24.1(113)(b). In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 698, 612 (Iowa 1980) and Peck v. EAB, 492 N.W.2d 438 (Iowa App. 1992). 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. See 871 IAC 24.25.

The evidence in this case established that the claimant was scheduled for work on July 6, 2009; July 10, 2009; July 11, 2009; and July 12, 2009. She did not show up for work and did not call her employer to report her absence. The employer has a written policy, of which the claimant was aware, that the employer is to be notified of any absence from work. The claimant was absent for three days without giving notice in violation of company rule. Under Iowa law, she is presumed a voluntary quit without good cause attributable to the employer. Benefits are denied.

DECISION:

The decision of the representative dated July 24, 2009, reference 04, is affirmed. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.

Vicki L. Seeck
Administrative Law Judge

Decision Dated and Mailed

vls/pjs