

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JODI L KLOSTER**

Claimant

**APPEAL NO. 11A-UI-08848-VS**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**FAMILY DOLLAR SERVICES INC**

Employer

**OC:05/29/11**

**Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Quit

**STATEMENT OF THE CASE:**

The claimant filed an appeal from a decision of a representative dated June 22, 2011, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on August 9, 2011, in Davenport, Iowa. Claimant participated. Brian Kloster was a witness for the claimant. Employer participated by Leah Douglas, human resources manager. The record consists of the testimony of Jodi Kloster; the testimony of Brian Kloster; the testimony of Leah Douglas; and Employer's Exhibits 1-6.

**ISSUE:**

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

**FINDINGS OF FACT:**

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

The employer owns and operates a distribution center in Maquoketa, Iowa. The claimant was hired on March 11, 2002. Her first job was order filler and she later became a sign out clerk. She was a full-time employee. Her last day of work was April 28, 2011. Her separation from employment occurred on May 16, 2011.

The claimant was incarcerated on April 29, 2011. She was required to serve a thirty-day sentence for OWI. The claimant had sufficient vacation time to cover her entire incarceration. The employer had a written policy, of which the claimant was aware, that vacations between May 1 and Labor Day were limited to two weeks. The claimant reached her maximum permissible vacation time on May 16, 2011. At that time she was still incarcerated and could not return to work. The claimant was informed on May 25, 2011, that her employment had ended. (Exhibit 1)

**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(16) 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:

(16) The claimant is deemed to have left if such claimant becomes incarcerated.

The evidence is uncontroverted that the claimant's employment came to an end after she was incarcerated on April 29, 2011. The employer did allow the claimant to use some of her vacation time to cover the incarceration, but her maximum allowable use of vacation time ended on May 16, 2011. The claimant was still in jail and could not return to work.

Iowa law states clearly that if an individual loses her job due to incarceration, the separation is deemed as a voluntary quit without good cause attributable to the employer. This disqualifies the claimant from receiving unemployment insurance benefits. The fact that the claimant had vacation days that could cover the period of incarceration does not change the outcome in this case. The employer had a written policy that limited vacation time to two weeks during the period of May 1 through Labor Day. The employer did permit the claimant to use two weeks. However when that two weeks expired, the claimant was still incarcerated. She lost her job due to her incarceration. Accordingly, she is not eligible for unemployment insurance benefits. Benefits are denied.

**DECISION:**

The decision of the representative dated June 22, 2011, reference 01, 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.

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Vicki L. Seeck  
Administrative Law Judge

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Decision Dated and Mailed

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