

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**LAURA J BAKER**

Claimant

**APPEAL NO: 12A-UI-04388-DT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**SEVENTH AVENUE INC**

Employer

**OC: 03/18/12**

**Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Leaving

**STATEMENT OF THE CASE:**

Laura J. Baker (claimant) appealed a representative's April 9, 2012 decision (reference 01) that concluded she was not qualified to receive unemployment insurance benefits after a separation from employment from Seventh Avenue, Inc. (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on May 9, 2012. The claimant participated in the hearing and presented testimony from one other witness, Leon Johnson. Lynn Rankin appeared on the employer's behalf. During the hearing, Employer's Exhibit One was entered into evidence. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

Did the claimant voluntarily quit for a good cause attributable to the employer?

**FINDINGS OF FACT:**

After a prior period of employment with the employer, the claimant most recently started working for the employer on August 16, 2011. She worked full time as a warehouse utility worker at the employer's Clinton, Iowa distribution center. She worked a shift from 7:00 a.m. to 3:00 p.m. Monday through Friday, plus overtime as needed. Her last day of work was an overtime shift on March 3, 2012.

The claimant called in absences from March 5 through March 12. The reason for the absences was because of personal transportation problems; the claimant did not have reliable transportation to make the 20 mile trip to work. On March 12 the claimant spoke to an assistant manager and indicated that she would also not be at work on March 13, but that she would be in for work on March 14. As part of that discussion the claimant understood that upon her return there would be discussion about her attendance and that termination might occur, but that the decision had not yet been made. The claimant was then a no-call, no-show for work on March 14, March 15, March 16, and did not call or report thereafter. The claimant had previously been given a warning and probation for attendance on February 9, 2012; she had

missed work prior 13 days, of which seven were due to other personal or transportation issues, and had been late to work on about six occasions.

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

If the claimant voluntarily quit her employment, she is not eligible for unemployment insurance benefits unless it was for good cause attributable to the employer. Iowa Code § 96.5-1.

Rule 871 IAC 24.25 provides that, 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. A voluntary leaving of employment requires an intention to terminate the employment relationship and an action to carry out that intent. Bartelt v. Employment Appeal Board, 494 N.W.2d 684 (Iowa 1993); Wills v. Employment Appeal Board, 447 N.W.2d 137, 138 (Iowa 1989). The intent to quit can be inferred in certain circumstances. For example, failing to report and perform duties as assigned is considered to be a voluntary quit. 871 IAC 24.25(27). The claimant did exhibit the intent to quit and did act to carry it out. The claimant would be disqualified for unemployment insurance benefits unless she voluntarily quit for good cause.

The claimant has the burden of proving that the voluntary quit was for a good cause that would not disqualify her. Iowa Code § 96.6-2. Ceasing to report for work because of a belief that she would be discharged for attendance is not good cause for leaving, where the employer had not made or communicated that discharge in fact would occur. 871 IAC 24.25(33). Leaving because of a lack of transportation is not good cause for quitting attributable to the employer. 871 IAC 24.25(1). The claimant has not satisfied her burden. Benefits are denied.

#### **DECISION:**

The representative's April 9, 2012 decision (reference 01) is affirmed. The claimant voluntarily left her employment without good cause attributable to the employer. As of March 14, 2012, benefits are withheld until such time as the claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

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Lynette A. F. Donner  
Administrative Law Judge

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Decision Dated and Mailed

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