

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**TRE BRADFORD**  
Claimant

**TARGET CORPORATION**  
Employer

**APPEAL 16A-UI-11391-DL-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 09/11/16**  
**Claimant: Respondent (4)**

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Iowa Code § 96.5(1) – Voluntary Quitting  
Iowa Admin. Code r. 871-24.27 – Voluntary Quitting – Part-time Employment  
Iowa Code § 96.5(2)a – Discharge for Misconduct

**STATEMENT OF THE CASE:**

The employer filed an appeal from the October 6, 2016, (reference 02) unemployment insurance decision that allowed benefits based upon a discharge from employment. The parties were properly notified about the hearing. A telephone hearing was held on November 4, 2016. Claimant participated. Employer participated through human resource executive team leader Amanda Watts and logistics team leader Brandon Brunner. The administrative law judge took official notice of the administrative record, including fact-finding documents.

**ISSUES:**

Did claimant voluntarily quit the part-time employment with good cause attributable to employer?  
Has the claimant requalified or is he otherwise monetarily eligible for benefits?  
Is the employer liable for benefit charges?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed as a part-time logistics team member through September 16, 2016. His last day of work was September 9, 2016. He was scheduled as not being available to work on September 11. He had no-call/no-show absences on September 10, 12 and 13, 2016. He was also a no-call/no-show on September 14. His immediate supervisor Brunner told him he was no longer employed due to no-call/no-show absences when he reported for work on September 16.

Claimant had conversations with Brunner about going back to school at DMACC in mid-August and transportation difficulty beginning when his friend Hunter and step-brother Mark Fleming no longer worked there. Brunner agreed he could work when he was available and swap shifts or call in to report inability to work a scheduled shift. Claimant did neither of those but assumed the schedule would be corrected without follow-up or action by him. Schedules

are posted online two weeks in advance. He made no schedule change requests in writing and did not present a school schedule to the human resource department.

The employer's policy provides that no call-no show absences for three consecutive workdays is considered a voluntary quitting of employment. Had he reported as scheduled or reported his absences, continued work was available. He had been warned in writing about failure to properly report absences in April 2016.

The administrative record shows that the claimant has not requalified for benefits since this separation but reflects he appears to be otherwise monetarily eligible for benefits after this part-time employer's wages are excluded from the base period.

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

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left the employment without good cause attributable to the employer, and has not requalified but appears to be otherwise monetarily eligible.

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.

Iowa Admin. Code r. 871-24.25(2) 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:

Iowa Admin. Code r. 871-24.25(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.

While the employer has the burden to establish the separation was a voluntary quitting of employment rather than a discharge, claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). An employer is entitled to expect its employees to report to work as scheduled or to be notified when and why the employee is unable to report to work. Inasmuch as the claimant failed to report for work or notify the employer for three consecutive workdays in violation of the employer policy, the

claimant is considered to have voluntarily left employment without good cause attributable to the employer.

Iowa Code section 96.5(1)g 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. But the individual shall not be disqualified if the department finds that:

g. The individual left work voluntarily without good cause attributable to the employer under circumstances which did or would disqualify the individual for benefits, except as provided in paragraph "a" of this subsection but, subsequent to the leaving, the individual worked in and was paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

Iowa Admin. Code r. 871-24.27 provides:

**Voluntary quit of part-time employment and requalification.** An individual who voluntarily quits without good cause part-time employment and has not requalified for benefits following the voluntary quit of part-time employment, yet is otherwise monetarily eligible for benefits based on wages paid by the regular or other base period employers, shall not be disqualified for voluntarily quitting the part-time employment. The individual and the part-time employer which was voluntarily quit shall be notified on the Form 65-5323 or 60-0186, Unemployment Insurance Decision, that benefit payments shall not be made which are based on the wages paid by the part-time employer and benefit charges shall not be assessed against the part-time employer's account; however, once the individual has met the requalification requirements following the voluntary quit without good cause of the part-time employer, the wages paid in the part-time employment shall be available for benefit payment purposes. For benefit charging purposes and as determined by the applicable requalification requirements, the wages paid by the part-time employer shall be transferred to the balancing account.

This rule is intended to implement Iowa Code section 96.5(1)"g."

Although the separation is disqualifying, the claimant has not requalified for benefits since the separation but appears to be otherwise monetarily eligible according to base period wages. Thus, he may be eligible for benefits based upon those other wages.

#### **DECISION:**

The October 6, 2016, (reference 02), unemployment insurance decision is modified in favor of the appellant. The claimant voluntarily left the employment without good cause attributable to the employer and has not requalified for benefits but appears to be otherwise monetarily eligible. Benefits are allowed, provided he is otherwise eligible. The account of this part-time employer Target Corporation (336573) shall not be charged.

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Dévon M. Lewis  
Administrative Law Judge

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Decision Dated and Mailed

dml/pjs