

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**TAWNYA M FULTS**

Claimant

**APPEAL NO. 11A-UI-04885-LT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**APAC CUSTOMER SERVICES  
OF IOWA LLC**

Employer

**OC: 02/27/11**

**Claimant: Appellant (1)**

Iowa Code § 96.5(1) – Voluntary Leaving  
Iowa Code § 96.5(2)a – Discharge for Misconduct

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the March 31, 2011 (reference 01) decision that denied benefits. After due notice was issued, a telephone conference hearing was held on May 10, 2011. Claimant participated. Employer participated through human resources generalist, Rochelle Jordan and operations manager, Angie Albright.

**ISSUE:**

The issue is whether claimant quit the employment without good cause attributable to the employer or if she was discharged for reasons related to job misconduct sufficient to warrant a denial of unemployment benefits.

**FINDINGS OF FACT:**

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: Claimant most recently worked full time as a customer service representative and was separated from employment on February 21, 2011. Her last day of work was January 28, 2011. On January 27 claimant was tardy and on January 31, February 2, 3, 4, and 7, 9, 10, and 14 she was recorded as having an unapproved, unpaid days off. She was reported as ill on February 8 and 11, 2011. Claimant had a history of giving inconsistent reasons for absences such as her vehicle had “blown up” one day but the next day she said the vehicle would not start. Another reason she reported missing work was to take her husband to the DOT even though her shift was from 10:00 a.m. to 2:00 p.m. weekdays. On Friday, February 11 Albright spoke with her and advised her that her attendance was of concern to the employer but did not tell her if she did not report for work on Monday she would be fired. On Monday, February 14 claimant told her immediate supervisor Teresa Andrews that she needed to go to Michigan for her grandfather’s funeral. She was a no-call/no-show on February 15, 16, 17, 18, and 21, 2011. Employer made multiple calls to claimant over those three days, which the claimant did not return. When she returned, she heard that she had been fired from a non-management floorwalker/team leader. She did not follow up with management or the human resources department about her employment status or provide evidence of having attended the funeral.

## REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was not discharged but voluntarily left the employment without good cause attributable to the employer.

Iowa Code § 96.5-2-a provides:

An individual shall be disqualified for benefits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:

a. The individual shall be disqualified for benefits until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

Iowa Code § 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.

A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980). The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2) (amended 1998). Generally, when an individual mistakenly believes they are discharged from employment, but was not told so by the employer, and they discontinue reporting for work, the separation is considered a quit without good cause attributable to the employer. Since claimant did not follow up with management personnel or human resources, and her assumption of having been fired was erroneous, claimant's failure to continue reporting to work was an abandonment of her job. Benefits are denied.

## DECISION:

The March 31, 2011 (reference 01) decision is affirmed. The claimant voluntarily left the employment without good cause attributable to the employer. Benefits are withheld until such time as she 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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Dévon M. Lewis  
Administrative Law Judge

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Decision Dated and Mailed

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