

**IOWA DEPARTMENT OF INSPECTIONS AND APPEALS
ADMINISTRATIVE HEARINGS DIVISION, UI APPEALS BUREAU**

SAYDIE EAKINS
Claimant

APPEAL 23A-UI-03615-AW-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

COMMUNICATIONS ENG CO INC
Employer

OC: 03/12/23
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

Claimant filed an appeal from the April 3, 2023 (reference 01) unemployment insurance decision that denied benefits finding claimant voluntarily quit her employment on March 3, 2023 due to three consecutive no-call/no-show absences. The parties were properly notified of the hearing. A telephone hearing was held on April 19, 2023. Claimant participated. Employer participated through Manager of People Development Summer Fisher. No exhibits were admitted.

ISSUES:

Whether claimant's separation was a voluntary quit without good cause attributable to employer.
Whether claimant is able to and available for work.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

Claimant was employed as a full-time Technician from September 19, 2022 until her employment with Communications Engineering Company ended on March 3, 2023. Claimant worked Monday through Friday from 7:30 am until 4:00 pm. Claimant's direct supervisor was TJ Turnis, Operations Manager.

On February 1, 2023, claimant requested light duty work due to a non-work-related illness. Employer did not have light duty work for claimant in her department. Employer advised claimant that she could contact managers of other departments to see if they had light duty work for her. For a few weeks, claimant contacted different managers and asked about light duty work. If they had light duty work available, claimant completed the work. If they did not have any light duty work, claimant performed no work. Claimant worked between two and 20 hours per week during this time.

In late February 2023, employer warned claimant that if she was going to be absent from work then she must notify her supervisor. Claimant did not ask employer for clarification about this instruction. Claimant last performed work for employer on February 27, 2023. Claimant performed no work for employer on February 28, 2023 through March 3, 2023. During those four days, claimant did not notify her supervisor that she was not working because she did not

consider these to be “call-ins” (or absences) and she had been working under this light duty arrangement for a month without notifying her direct supervisor each day.

Employer has a policy stating three consecutive no-call/no-show absences are considered job abandonment. The policy is in the employee handbook. Claimant acknowledged receipt of the policy. Employer’s attendance policy requires employees to notify their direct supervisors of any absences. Claimant received a prior written warning for no-call/no-show absences.

On March 3, 2023, employer terminated claimant’s employment finding that she abandoned her job because she was absent for three consecutive shifts without notifying employer.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes:

Iowa Code § 96.5(1) provides: An individual shall be disqualified for benefits, 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(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.

During the last month of claimant’s employment, employer agreed to accommodate claimant’s request for light duty work due to a non-work-related illness. The parties’ agreement began as a loose arrangement wherein claimant contacted various department managers asking whether they had light duty work and performing that work when it was available. A week prior to claimant’s separation, employer told claimant that she must notify her direct supervisor of any absences going forward. Employer’s request was reasonable. Claimant chose not to comply with employer’s instructions because she did not believe she was “calling in” and she had not been doing it for the past month. These are not good cause reasons for claimant to disregard employer’s directions.

Employer has a policy that three consecutive no-call/no-show absences are considered job abandonment. Claimant received a copy of the policy. Claimant did not give employer proper notice of her absences between February 28, 2023 and March 3, 2023 because she did not notify her direct supervisor; those are considered no-call/no-show absences. Claimant has not provided a good cause reason attributable to employer for voluntarily quitting. Claimant’s separation is disqualifying. Benefits are denied.

Because claimant's separation is disqualifying, the issue of whether claimant is able to and available for work is moot.

DECISION:

The April 3, 2023 (reference 01) unemployment insurance decision is AFFIRMED. Claimant's separation is disqualifying. Benefits are denied 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. The issue of whether claimant is able to and available for work is moot.



Adrienne C. Williamson
Administrative Law Judge

April 27, 2023
Decision Dated and Mailed

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APPEAL RIGHTS. If you disagree with the decision, you or any interested party may:

1. Appeal to the Employment Appeal Board within fifteen (15) days of the date under the judge's signature by submitting a written appeal via mail, fax, or online to:

**Employment Appeal Board
4th Floor – Lucas Building
Des Moines, Iowa 50319
Fax: (515)281-7191
Online: eab.iowa.gov**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

AN APPEAL TO THE BOARD SHALL STATE CLEARLY:

- 1) The name, address, and social security number of the claimant.
- 2) A reference to the decision from which the appeal is taken.
- 3) That an appeal from such decision is being made and such appeal is signed.
- 4) The grounds upon which such appeal is based.

An Employment Appeal Board decision is final agency action. If a party disagrees with the Employment Appeal Board decision, they may then file a petition for judicial review in district court.

2. If no one files an appeal of the judge's decision with the Employment Appeal Board within fifteen (15) days, the decision becomes final agency action, and you have the option to file a petition for judicial review in District Court within thirty (30) days after the decision becomes final. Additional information on how to file a petition can be found at Iowa Code §17A.19, which is online at <https://www.legis.iowa.gov/docs/code/17A.19.pdf> or by contacting the District Court Clerk of Court <https://www.iowacourts.gov/iowa-courts/court-directory/>.

Note to Parties: YOU MAY REPRESENT yourself in the appeal or obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds.

Note to Claimant: It is important that you file your weekly claim as directed, while this appeal is pending, to protect your continuing right to benefits.

SERVICE INFORMATION:

A true and correct copy of this decision was mailed to each of the parties listed.

DERECHOS DE APELACIÓN. Si no está de acuerdo con la decisión, usted o cualquier parte interesada puede:

1. Apelar a la Junta de Apelaciones de Empleo dentro de los quince (15) días de la fecha bajo la firma del juez presentando una apelación por escrito por correo, fax o en línea a:

**Employment Appeal Board
4th Floor – Lucas Building
Des Moines, Iowa 50319
Fax: (515)281-7191
En línea: eab.iowa.gov**

El período de apelación se extenderá hasta el siguiente día hábil si el último día para apelar cae en fin de semana o día feriado legal.

UNA APELACIÓN A LA JUNTA DEBE ESTABLECER CLARAMENTE:

- 1) El nombre, dirección y número de seguro social del reclamante.
- 2) Una referencia a la decisión de la que se toma la apelación.
- 3) Que se interponga recurso de apelación contra tal decisión y se firme dicho recurso.
- 4) Los fundamentos en que se funda dicho recurso.

Una decisión de la Junta de Apelaciones de Empleo es una acción final de la agencia. Si una de las partes no está de acuerdo con la decisión de la Junta de Apelación de Empleo, puede presentar una petición de revisión judicial en el tribunal de distrito.

2. Si nadie presenta una apelación de la decisión del juez ante la Junta de Apelaciones Laborales dentro de los quince (15) días, la decisión se convierte en acción final de la agencia y usted tiene la opción de presentar una petición de revisión judicial en el Tribunal de Distrito dentro de los treinta (30) días después de que la decisión adquiera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que se encuentra en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf> o comunicándose con el Tribunal de Distrito Secretario del tribunal <https://www.iowacourts.gov/iowa-courts/court-directory/>.

Nota para las partes: USTED PUEDE REPRESENTARSE en la apelación u obtener un abogado u otra parte interesada para que lo haga, siempre que no haya gastos para Workforce Development. Si desea ser representado por un abogado, puede obtener los servicios de un abogado privado o uno cuyos servicios se paguen con fondos públicos.

Nota para el reclamante: es importante que presente su reclamo semanal según las instrucciones, mientras esta apelación está pendiente, para proteger su derecho continuo a los beneficios.

SERVICIO DE INFORMACIÓN:

Se envió por correo una copia fiel y correcta de esta decisión a cada una de las partes enumeradas.