

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DEBBIE S BOUDONCK**  
Claimant

**APPEAL NO: 12A-UI-13262-ST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**BROWNELLS INCORPORATED**  
Employer

**OC: 10/14/12  
Claimant: Appellant (2)**

Section 96.5-1 – Voluntary Quit  
871 IAC 24.26(21) – Quit or be Fired

**STATEMENT OF THE CASE:**

The claimant appealed a department decision dated October 31, 2012, reference 01, that held she was discharged for misconduct on October 16, 2012, and benefits are denied. A telephone hearing was held on December 5, 2012. The claimant participated. The employer did not participate.

**ISSUE:**

Whether the claimant was discharged for misconduct in connection with employment.

**FINDINGS OF FACT:**

The administrative law judge having heard the testimony of the witness, and having considered the evidence in the record, finds: The claimant began employment on March 31, 2007, and last worked for the employer as a full-time CSR on October 16, 2012. The claimant had some attendance issues that caused to her to approach the level for termination. An employer representative gave claimant the option to voluntarily quit by resignation rather than be terminated. Claimant understood that if she resigned the employer would not contest her unemployment.

The employer failed to respond to the hearing notice.

**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 24.26(21) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(21) The claimant was compelled to resign when given the choice of resigning or being discharged. This shall not be considered a voluntary leaving.

The administrative law judge concludes the claimant resigned rather than be terminated that is an involuntary employment separation with good cause on October 16, 2012, and benefits are allowed.

**DECISION:**

The department decision dated October 31, 2012, reference 01, is reversed. The claimant was involuntarily terminated by a quit or be discharged on October 16, 2012. Benefits are allowed, provided the claimant is otherwise eligible.

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Randy L. Stephenson  
Administrative Law Judge

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Decision Dated and Mailed

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