

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**LISA A HIRSCHAUER**  
Claimant

**APPEAL NO. 10A-UI-06295-VST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**THE CBE GROUP INC**  
Employer

**OC: 03/21/10/10  
Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Quit

**STATEMENT OF THE CASE:**

Claimant filed an appeal from a decision of a representative dated April 19, 2010, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on June 14, 2010. Claimant participated. Employer participated by Denise Beuler, Senior Manager Administration—FMS Department, and Toni Babcock, Human Resources Manager. The record consists of the testimony of Lisa Hirschauer and the testimony of Denise Beuler.

**ISSUE:**

Whether the claimant voluntarily left for good cause attributable to the employer.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony of the witnesses and having considered all of the evidence in the record, makes the following findings of fact:

The employer is a collection agency that primarily works for governmental units. The claimant began working for the employer on December 13, 2004. On her last day of work, which was March 16, 2010, the claimant was a full-time administrative resolutions clerk.

On or about January 6, 2010, the claimant asked the employer if she could move to part-time hours since she was starting school for massage therapy on March 17, 2010. Denise Beuler, the claimant's supervisor, informed her on February 26, 2010, that a full-time employee was needed and that the employer could not utilize a part-time employee. The claimant approached the human resources department and asked if going part time was a possibility. She was told that a full-time person had to be hired to replace the claimant and that part-time hours were not available. The claimant had already paid the fees to attend school. Her last day of work was March 16, 2010, and she started school on March 17, 2010. She is presently attending school and is not looking for work at the present time. Work was available from the employer had the claimant not elected to quit her job to attend school.

## 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 24.25(26) 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:

(26) The claimant left to go to school.

A quit is a separation initiated by the employee. 871 IAC 24.1(113)(b). In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 698, 612 (Iowa 1980) and Peck v. EAB, 492 N.W.2d 438 (Iowa App. 1992). 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. See 871 IAC 24.25.

The evidence in this case established that it was the claimant who initiated the separation of employment. The claimant was a full-time employee and she had decided to attend massage therapy school. Her school start date was March 17, 2010. The claimant wanted to work only part time, but the employer did not have any part-time work available. The claimant elected to go ahead with her school plans and her employment ended on March 16, 2010. The claimant's choice to attend school shows her intent to sever the employer/employee relationship. Iowa law states that if a claimant leaves to attend school, the claimant is presumed to have voluntarily quit without good cause attributable to the employer.

The claimant stated that she should have been offered part-time work because other employees had been given an opportunity to work the "school schedule." The employer did not have any obligation to offer the claimant part-time work so that she could go to school. Accordingly, the claimant voluntarily left without good cause attributable to the employer. Benefits are denied.

**DECISION:**

The decision of the representative dated April 19, 2010, reference 01, is affirmed. Unemployment insurance benefits shall be withheld 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.

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Vicki L. Seeck  
Administrative Law Judge

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Decision Dated and Mailed

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