

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DENIELL E WOLFE
Claimant

APPEAL NO. 10A-UI-17247-MT

**ADMINISTRATIVE LAW JUDGE
DECISION**

IA DEPT OF CORRECTIONS - NEWTON
Employer

OC: 05/02/10
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated December 16, 2010, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on January 31, 2011. Claimant participated personally. Employer participated by Tom Kuiper, Hearing Representative, TALX with witness Steve Squires, Personnel Director.

ISSUE:

The issue in this matter is whether claimant quit for good cause attributable to employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on November 16, 2010. Claimant was suspended because she missed work while on a last-chance agreement. Claimant was also under investigation for failure to complete a treatment program for chemical dependency. Claimant was brought in for questioning to determine mitigating circumstances. Claimant was not told she would face discharge if she did not resign. Employer had not determined whether claimant was going to lose her job. Claimant chose to quit rather than take her chances on keeping her job. Claimant quit rather than go through an investigation to determine mitigating circumstances.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge holds that the evidence has failed to establish that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship because she thought she was going to face discharge. Employer did not tell claimant she had to quit or she would be discharged. Claimant chose to voluntarily resign rather than proceed with an investigation. This is a quit for personal reasons. Claimant quit to avoid the risk of having a discharge on her record. Benefits withheld

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(28) 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:

(28) The claimant left after being reprimanded.

DECISION:

The decision of the representative dated December 16, 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.

Marlon Mormann
Administrative Law Judge

Decision Dated and Mailed

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Decision Dated and Mailed

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