

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

MARY MITCHELL
Claimant

APPEAL NO. 18A-UI-09768-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WHIRLPOOL CORPORATION
Employer

OC: 02/25/18
Claimant: Appellant (1)

Iowa Code Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Mary Mitchell filed a timely appeal from the September 12, 2018, reference 05, decision that disqualified her for benefits and that relieved the employer of liability for benefits, based on the Benefits Bureau deputy's conclusion that Ms. Mitchell voluntarily quit on August 17, 2018 without good cause attributable to the employer. After due notice was issued, a hearing was held on October 9, 2018. Ms. Mitchell participated. The employer did not comply with the hearing notice instructions to register a telephone number for the hearing and did not participate.

ISSUE:

Whether Ms. Mitchell separated from the employment for a reason that disqualifies her for unemployment insurance benefits or that relieves the employer's account of liability for benefits.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Mary Mitchell was employed by Whirlpool Corporation as a full-time assembler at the employer's plant in Middle Amana. Ms. Mitchell began the employment on May 17, 2018. Ms. Mitchell's work hours were 7:00 a.m. to 3:30 p.m., Monday through Friday. Ms. Mitchell's immediate supervisor was Jeremy Ford, Line 6 Supervisor. Ms. Mitchell commuted as a passenger in a coworker's car from her home in Blainstown to the workplace in Middle Amana.

Ms. Mitchell last performed work for the employer on August 9, 2018. On that day, Ms. Mitchell left work early because she was experiencing back spasms. Before she left work early, she spoke with her team lead and her supervisor, Mr. Ford, to get permission to leave work early. After Ms. Mitchell left work early, she went to the doctor and obtained a medical excuse that took her off work through August 14, 2018. Ms. Mitchell and her doctor discussed whether the assembly work was right for Ms. Mitchell in light of her ongoing back issues. However, the doctor did not provide Ms. Mitchell with any medical documentation advising her to leave the employment and Ms. Mitchell presented no such documentation to the employer.

Ms. Mitchell was next scheduled to work on Friday, August 10. On that day, Ms. Mitchell properly reported her absence to the employer by calling the automated absence reporting line at least 30 minutes before the start of her shift and entering appropriate information regarding her need to be absent. On August 9 and 10 a team lead who was not Ms. Mitchell's team lead,

but who happened also to live in Blairstown, stopped by Ms. Mitchell's home to check on Ms. Mitchell. The team lead told Ms. Mitchell in casual conversation that she thought Ms. Mitchell was going to lose her job based on the absences. Ms. Mitchell knew at the time of the casual conversation that the employer had not sent the team lead to speak to Ms. Mitchell and that the team lead was not authorized to speak on behalf of the employer.

Ms. Mitchell was next scheduled to work on Monday, August 13. Ms. Mitchell again properly reported her absence by calling the automated absence reporting number at least 30 minutes prior to the scheduled start of her shift.

Ms. Mitchell was next scheduled to work on Tuesday, August 14. On that day, Ms. Mitchell attempted to provide proper notice of her need to be absent by calling the automated absence reporting line at least 30 minute prior to the scheduled start of her shift. However, the automated system provided a message that the system did not recognize Ms. Mitchell's badge number. For this reason, Ms. Mitchell was unable to report her absence. Ms. Mitchell assumed at that point that she was discharged from the employment. Ms. Mitchell did not take any steps to locate a number for the employer's human resources department or plant management to discuss her employment status. Ms. Mitchell elected not to travel to the workplace to inquire about her work status. Ms. Mitchell cites the commuting distance as the basis for that decision. Ms. Mitchell was concerned that if she traveled with the coworker to the workplace in Middle Amana, she would then be stuck there until her coworker's shift ended. Ms. Mitchell did not make further contact with the employer and did not report for additional shifts. Later in August, Ms. Mitchell received correspondence from the employer's third-party retirement benefits administrator acknowledging a termination of benefit eligibility effective August 9, 2018. Ms. Mitchell also received COBRA correspondence that acknowledged a change in status effective August 9, 2018.

REASONING AND CONCLUSIONS OF LAW:

A discharge is a termination of employment initiated by the employer for such reasons as incompetence, violation of rules, dishonesty, laziness, absenteeism, insubordination, or failure to pass a probationary period. Iowa Administrative Code rule 871-24.1(113)(c). A quit is a separation initiated by the employee. Iowa Administrative Code rule 871-24.1(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 Iowa Administrative Code rule 871-24.25.

In considering an understanding or belief formed, or a conclusion drawn, by an employer or claimant, the administrative law judge considers what a reasonable person would have concluded under the circumstances. See *Aalbers v. Iowa Department of Job Service*, 431 N.W.2d 330 (Iowa 1988) and *O'Brien v. Employment Appeal Bd.*, 494 N.W.2d 660 (1993).

Iowa Code section 96.5(1) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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.

The weight of the evidence in the record establishes a voluntary quit without good cause attributable to the employer. A reasonable person in Ms. Mitchell's circumstances would not

have concluded, based on August 14 problematic interaction with the automated absence reporting line, that the employer had discharged Ms. Mitchell from the employment. Rather, a reasonable person would have done a quick Google search to obtain a phone number for the human resources department and would have contacted the human resources department to inquire about the status of the employment and get help with the absence reporting system. In the alternative, a reasonable person in Ms. Mitchell's circumstances would have reported to the workplace to speak with her supervisor or a human resources representative. Ms. Mitchell jumped to the conclusion that she was discharged in the absence of any communication from the employer. Ms. Mitchell's conduct indicated a quit through her failure to make further contact with the employer and failure to report for additional shifts. The subsequent benefits and COBRA correspondence do not indicate there was a discharge. Instead, those letters merely acknowledge a change in benefit eligibility without characterizing the nature of the separation. The evidence fails to establish that a medical professional specifically advised Ms. Mitchell to leave the employment. The release to return on August 15, 2018 undermines the notion that it was medically necessary for Ms. Mitchell to leave the employment.

Because the evidence establishes a voluntarily quit without good cause attributable to the employer, Ms. Mitchell is disqualified for benefits until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount. Ms. Mitchell must meet all other eligibility requirements. The employer's account shall not be charged.

DECISION:

The September 12, 2018, reference 05, decision is affirmed. The claimant voluntarily quit the employment without good cause attributable to the employer. The claimant is disqualified for benefits until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount. The claimant must meet all other eligibility requirements. The employer's account shall not be charged.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/rvs