

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RACHAEL CRAIG
Claimant

APPEAL NO. 08A-UI-09507-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

AADG INC
Employer

OC: 06/08/08 R: 0 2
Claimant: Appellant (1)

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Rachael Craig (claimant) appealed an unemployment insurance decision dated October 10, 2008, reference 03, which held that she was not eligible for unemployment insurance benefits because she voluntarily quit her employment with AADG, Inc. (employer), doing business as Curries-Graham, without good cause attributable to the employer. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on November 3, 2008. The claimant participated in the hearing. The employer participated through Larry Haugen, Human Resources Manager. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

The issue is whether the claimant's voluntary separation from employment qualifies her to receive unemployment insurance benefits?

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was employed as a full-time general laborer from September 27, 2006 through September 11, 2008. She was suspended due to a safety violation for three days ending September 5, 2008. This was a third step corrective action which is equivalent to a final warning. The claimant worked on September 8, 2008 from 2:47 p.m. to 11:01 p.m. She reported to work on September 9, 2008 at 2:46 p.m. but requested a personal day and left at 3:01 p.m. The claimant was a no-call/no-show on September 10 and 11, 2008. The employer's attendance policy provides that employees are considered to have voluntarily quit after two days of no-call/no-show. The employer considered the claimant to have voluntarily quit as of September 11, 2008 but did not hear from her at any time after September 9, 2008.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the reasons for the claimant's separation from employment qualify her to receive unemployment insurance benefits. The claimant is not qualified to receive unemployment insurance benefits if she voluntarily quit without good cause attributable to the employer or if the employer discharged her for work-connected misconduct. Iowa Code sections 96.5-1 and 96.5-2-a.

The claimant contends that on September 2, 2008 she was told by her mother that her aunt said the claimant's supervisor said that she was terminated. The claimant's supervisor was reportedly her aunt's boyfriend. However, the claimant's last day of work was September 8, 2008 so her explanation is not credible. In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980) and Peck v. Employment Appeal Bd., 492 N.W.2d 438 (Iowa Ct. App. 1992). The claimant demonstrated her intent to quit by failing to call or report to work for two consecutive days ending on September 11, 2008. She carried out that intent by failing to contact the employer after that date.

It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify her. Iowa Code section 96.6-2. She has not satisfied that burden and benefits are denied.

DECISION:

The unemployment insurance decision dated October 10, 2008, reference 03, is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until she has worked in and has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/css