

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**RUTH E SMITH**

Claimant

**APPEAL NO. 15A-UI-03342-S2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**WHIRLPOOL CORPORATION**

Employer

**OC: 12/28/14**

**Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Quit

**STATEMENT OF THE CASE:**

Ruth Smith (claimant) appealed a representative's March 12, 2015 (reference 04) decision that concluded she was not eligible to receive unemployment insurance benefits after her separation from employment with Whirlpool Corporation (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for April 14, 2015. The claimant participated personally. The employer participated by Carrie Jaster, Human Resources Generalist. The employer offered and Exhibit One was received into evidence.

**ISSUE:**

The issue is whether the claimant was separated from employment for any disqualifying reason.

**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 hired on June 30, 2008 as a full-time assembler/manufacturer. The claimant signed for receipt of the collective bargaining agreement. The claimant had a shoulder injury she believed was work-related. She reported it to the employer July 30, 2014 but the employer would not allow her to complete paperwork on the injury. The claimant had surgery on her shoulder on September 29, 2014. She took a medical leave of absence through February 2, 2015 and returned to work with restrictions on February 3, 2015.

The claimant properly reported her absence due to shoulder pain on February 4, 2015. She requested and was granted vacation from February 5 through 16, 2015. She properly reported her absence due to shoulder issues on February 17, 2015. The claimant worked with restrictions on February 18 and 19, 2015. She properly reported her absence due to shoulder issues on February 20, 23, 24, 26, 27, and March 4, 2015. The claimant did not appear for work or report her absence on February 25, March 2, 3, 5, and 6, 2015. The claimant stopped reporting her absences because she assumed she was terminated. The employer assumed the claimant quit work. Continued work was available had the claimant not resigned.

## REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant voluntarily quit work without good cause attributable to the employer.

Iowa Code § 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.

Iowa Admin. Code r. 871-24.25(33) 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 § 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 § 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:

(33) The claimant left because such claimant felt that the job performance was not to the satisfaction of the employer; provided, the employer had not requested the claimant to leave and continued work was available.

A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980). The claimant's intention to voluntarily leave work was evidenced by her actions. When an employee quits work because she believes her attendance is not to the satisfaction of the employer and the employer has not requested her to leave, her leaving is without good cause attributable to the employer. The claimant left work because she thought her attendance would result in her termination even though the employer did not request her to leave. Her leaving was without good cause attributable to the employer. The claimant voluntarily quit without good cause attributable to the employer. Benefits are denied.

## DECISION:

The representative's March 12, 2015 (reference 04) decision is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times the claimant's weekly benefit amount, provided the claimant is otherwise eligible.

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Beth A. Scheetz  
Administrative Law Judge

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Decision Dated and Mailed

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