

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JESSICA L CLOKE
Claimant

APPEAL NO. 09A-UI-06874-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

FAMILY DOLLAR STORES OF IOWA INC
Employer

OC: 04/05/09
Claimant: Appellant (1)

Section 96.5(1) - Quit

STATEMENT OF THE CASE:

The claimant, Jessica Cloke, filed an appeal from a decision dated April 29, 2009, reference 01. The decision disqualified her from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on May 29, 2009. The claimant participated on her own behalf. The employer, Family Dollar Stores, participated by Store Manager Becky Robinson and Assistant Manager Misty LeClere. Exhibit A was admitted into the record.

ISSUE:

The issue is whether the claimant quit work with good cause attributable to the employer.

FINDINGS OF FACT:

Jessica Cloke was employed by Family Dollar from September 8, 2008 until January 27, 2009 as a part-time cashier. She received a copy of the employee handbook. One of the policies contained in the handbook notifies employees they will be considered a voluntary quit if they are no-call/no-show to work for three days.

The claimant's last day of work was January 22, 2009. Her next three scheduled workdays were January 25, 26 and 27, 2009, and she was no-call/no-show to work for each of those shifts. The employer had tried to call her during that time, both the manager and assistant manager, and the only answer was a voice mail. Messages were left for Ms. Cloke to contact the store but she never did.

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(4) 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:

(4) The claimant was absent for three days without giving notice to employer in violation of company rule.

The claimant maintains she was fired because Assistant Manager Misty LeClere called her on January 25, 2009, and told her she was "going to be fired." Ms. LeClere testified and denied she had had any conversation with Ms. Cloke on or around that date. In any event she did not have the authority to fire anyone and Store Manager Becky Robinson did not fire her, but kept her on the schedule for at least a week after her last day of work.

The record establishes the claimant quit by being no-call/no-show for three days in violation of the store policy. Under the provisions of the above Administrative Code section, this is a voluntary quit without good cause attributable to the employer and the claimant is disqualified.

DECISION:

The representative's decision of April 29, 2009, reference 01, is affirmed. Jessica Cloke is disqualified and benefits are withheld until she has earned ten times her weekly benefit amount, provided she is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/css