

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BETH A LEE
Claimant

APPEAL NO. 12A-UI-00864-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**THOMAS L CARDELLA & ASSOCIATES
INC**
Employer

**OC: 12/18/11
Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed a timely appeal from a representative's decision dated January 19, 2012, reference 01, which denied unemployment insurance benefits. After due notice, a telephone hearing was held on February 20, 2012. Claimant participated. The employer participated by Ms. Barbra Toney, Hearing Representative, and witnesses: Mr. Cory Nemmers, Operations Manager, and Ms. Kathleen Campos, Operations Supervisor.

ISSUE:

The issue is whether the claimant left employment with good cause attributable to the employer.

FINDINGS OF FACT:

Having considered all of the evidence in the record, the administrative law judge finds: Beth Lee was employed by Thomas Cardella & Associates from January 4, 2010 until December 14, 2011 when she was separated from employment. Ms. Lee worked as a full-time customer care agent and was paid by the hour. Her immediate supervisor was Kathleen Campos.

The claimant was separated from her employment with this company after she failed to report or provide proper notification to her employer of her impending absences on December 12, 13, and 14, 2011. Company policy requires that employees who are going to be absent must call in at least one hour before the beginning of their shift and speak to the company's operations manager or an operations supervisor.

Ms. Lee had been off work for an extended period due to illness. The time away from work authorized by her doctor's note had come to an end and Ms. Lee had reported to work on Thursday, December 8, 2011. Claimant had not been scheduled to work that Friday. Ms. Lee attempted to send a text message to her supervisor on December 12, 2011 indicating that Ms. Lee was making a doctor's appointment for Friday, December 16, 2011. Ms. Campos did not receive the message but attempted to call the claimant on December 12, 13, and 14, 2011 but received no response from the claimant. After the claimant had failed to report and did not properly notify the employer of her impending absences for three consecutive work days, the

employer concluded that Ms. Lee had abandoned her job. After being informed that the company was processing her separation from employment, Ms. Lee provided no additional information to the company and did not attend the doctor's appointment that she previously scheduled.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant voluntarily left employment 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.

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 § 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:

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

An employer is entitled to expect its employees to report for work as scheduled or to be notified when and why the employee is unable to report to work. Inasmuch as the evidence in the record establishes that the claimant failed to report for work or properly notify the employer for three or more consecutive work days in violation of the employer's policy, the claimant is considered to have voluntarily left employment without good cause attributable to the employer. Benefits are withheld.

DECISION:

The January 19, 2012, reference 01, decision is affirmed. Claimant voluntarily left employment without good cause attributable to the employer. Benefits are withheld until such time as the claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided that she is otherwise eligible.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs