

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

PATRICIA A HODGE
Claimant

APPEAL NO. 10A-UI-12025-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

D OF S FOODS INC
Employer

OC: 07/11/10
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed a timely appeal from a representative's decision dated August 16, 2010, reference 02, which denied benefits based upon the claimant's separation from D of S Foods, Inc. After due notice, a telephone hearing was held on November 15, 2010. Claimant participated personally. The employer participated by Teresa Peak, 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: Patricia Hodge was employed by D of S Foods, Inc. doing business as McDonald's as a part-time crew person from December 3, 2009 until June 29, 2010 when she voluntarily left employment by failing to report for work for three consecutive days and not providing notice to the employer.

The employer's work schedule is posted and employees are expected to personally review schedules to determine when they are scheduled to work. If an employee has difficulty in determining their schedule or status they are expected to contact the facility manager.

After Ms. Hodge had not reported for scheduled work for three or more consecutive work days on June 24, June 26, and June 29, 2010 and had not provided notification to the employer, the claimant was not again scheduled to work by the company.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant left employment without good cause attributable to the employer.

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 evidence in the record established the claimant was separated when she failed to continue to report for scheduled work and did not provide notification to the employer. The claimant failed to report for work on June 24, June 26, and June 29, 2010 although she was scheduled to do so. The claimant did not provide any notification to the employer that she would not be reporting. It is the claimant's obligation to determine her work schedule and provide notification to the employer if the employee is not able to work.

Based upon the facts of this case and the application of the correct law, the administrative law judge concludes the claimant left employment without good cause attributable to the employer.

DECISION:

The representative's decision dated August 16, 2010, reference 02, is affirmed. The claimant left employment without good cause attributable to the employer. Unemployment insurance benefits are withheld until the claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, and is otherwise eligible.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs