

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TRESSA L DENNIS
Claimant

APPEAL NO. 08A-UI-07976-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**RIVER BEND INDUSTRIES
VICTOR PLASTICS**
Employer

**OC: 04/27/08 R: 03
Claimant: Appellant (1)**

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Tressa Dennis (claimant) appealed a representative's August 28, 2008 decision (reference 03) that concluded she was not eligible to receive unemployment insurance benefits because she voluntarily quit work with River Bend Industries (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for October 29, 2008. The claimant participated personally. The employer participated by Deb Simpson, Human Resources Generalist.

ISSUE:

The issue is whether the claimant was discharged for misconduct.

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 April 21, 2008, as a full-time machine operator. She worked Sunday through Thursday from 11:00 p.m. to 7:00 a.m. The claimant's house was damaged in flood water. The claimant did not appear for her shift on June 11, 2008, or notify the employer of her absence. On June 12, 2008, she notified the employer she would not be at work. On June 15, 2008, she asked the employer for one day of vacation. The employer granted her request. The claimant's route to work was closed through June 19, 2008. The claimant notified the employer each day through June 19, 2008, that she would not be at work.

The claimant did not notify the employer of her absences on June 22, 23 and 24, 2008. On June 25, 2008, she reported her absence. The claimant did not notify the employer of her absences on June 26, 29 and 30, 2008. On July 1, 2008, the claimant told the employer she would be at work that day. The employer told the claimant it was her last chance. The claimant did not appear for work that evening or on July 2 and 6, 2008. She did not notify the employer of her absence.

The claimant called the employer on July 7, 2008, and asked if she were still employed. The employer said they assumed the claimant voluntarily terminated her employment.

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 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(20) 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:

(20) The claimant left for compelling personal reasons; however, the period of absence exceeded ten working days.

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. She was absent from work for personal reasons for more than ten working days. When an employee is absent from work for more than ten working days for compelling personal reasons, her leaving is without good cause attributable to the employer. The claimant left work for more than ten working days for compelling personal reasons. 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 August 28, 2008 decision (reference 03) 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.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/pjs