

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MELISSA WARREN**  
Claimant

**APPEAL NO. 08A-UI-07879-BT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CDS GLOBAL INC**  
Employer

**OC: 08/10/08 R: 02**  
**Claimant: Appellant (1)**

Iowa Code § 96.5-1 - Voluntary Quit

**STATEMENT OF THE CASE:**

Melissa Warren (claimant) appealed an unemployment insurance decision dated September 2, 2008, reference 02, which held that she was not eligible for unemployment insurance benefits because she voluntarily quit her employment with CDS Global, Inc. (employer) without good cause attributable to the employer. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on September 16, 2008. The claimant participated in the hearing. The employer participated through Linda Burns, Employee Relations Specialist, and Michelle Baumgardner, Customer Service Manager. Employer's Exhibits One through Three were admitted into evidence. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

The issue is whether the claimant's voluntary separation from employment qualifies her to receive unemployment insurance benefits.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds that: The claimant was employed as a full-time customer service representative from September 10, 2007 through August 13, 2008, when she voluntarily quit. The employer has a progressive disciplinary policy that provides a documented verbal, a first written, a second/final written, and a first/final/only written warning before termination results. The claimant had received a documented verbal for attendance on June 20, 2008, but had no other disciplinary warnings. She had originally worked a schedule from 8:00 a.m. to 4:30 p.m. but requested to reduce her hours for personal reasons and eventually worked the hours of 10:00 a.m. to 4:30 p.m.

The claimant missed work on August 4, and 5, 2008, because her grandmother was in the hospital. On the evening of August 5, 2008, the claimant's boyfriend accidentally started a fire in her apartment when he was making something for an "air soft tournament." The claimant called her supervisor that night and stated that she would not be at work on August 6, 2008. Her boyfriend was not on the lease and was not supposed to be living with the claimant. When investigating the fire, the landlord saw the boyfriend's clothes in the closet and evicted the claimant. The claimant called her supervisor and reported that she had been evicted and her supervisor told her to take off the rest of the week to get her personal life in order.

The claimant worked her regular shift on August 11, 2008, but called in on August 12, 2008 stating that she would be late. She arrived shortly after 10:00 a.m., but left work within a half hour. The claimant received a telephone call that her grandmother was dying and the claimant left to go to the hospital. She notified her employer at the time but later called her supervisor and asked for the rest of the week off so that she could spend time with her grandmother and get moved into her new apartment. Her supervisor said she would have to check, since numerous other employees were taking authorized time off work that week and the claimant had taken off work the previous week. The supervisor called the claimant and stated that she could not take the time off work and needed to be there. If the claimant refused to work, she was advised to submit her resignation. The claimant submitted a written resignation on August 13, 2008, which admitted that her request for time off had been denied and that she was opting to resign rather than call in every day. The claimant was not in danger of being fired for attendance at that time, since she had only received a verbal warning.

#### **REASONING AND CONCLUSIONS OF LAW:**

The issue is whether the reasons for the claimant's separation from employment qualify her to receive unemployment insurance benefits. The claimant is not qualified to receive unemployment insurance benefits if she voluntarily quit without good cause attributable to the employer or if the employer discharged her for work-connected misconduct. Iowa Code §§ 96.5-1 and 96.5-2-a.

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980) and Peck v. Employment Appeal Bd., 492 N.W.2d 438 (Iowa Ct. App. 1992). The claimant demonstrated her intent to quit and acted to carry it out when she submitted a written resignation to the employer on August 13, 2008. She contends she felt she was going to be fired if she did not quit but also admits she was aware of the employer's progressive discipline policy. According to the progressive disciplinary policy, the claimant was not even close to getting terminated. She denied in the hearing that she had requested time off work, but her resignation confirms that she had. Her separation was for personal reasons and is not attributable to the employer.

It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify her. Iowa Code § 96.6-2. The claimant has not satisfied that burden. Benefits are denied.

**DECISION:**

The unemployment insurance decision dated September 2, 2008, reference 02, is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until she has worked in and has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

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Susan D. Ackerman  
Administrative Law Judge

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Decision Dated and Mailed

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