

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**LYNDA J WILLIAMS**  
Claimant

**APPEAL NO. 09A-UI-11510-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**MENARD INC**  
Employer

**Original Claim: 07/05/09  
Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Quit

**STATEMENT OF THE CASE:**

Lynda J. Williams (claimant) appealed a representative's August 12, 2009 decision (reference 01) that concluded she was not qualified to receive benefits, and the account of Menard, Inc. (employer) would not be charged because she voluntarily quit her employment for reasons that do not qualify her to receive benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on September 10, 2009. The claimant participated in the hearing. Jason Kuiper represented the employer. Andrew Maw, an assistant manager, appeared on the employer's behalf. During the hearing, Employer Exhibits Four through Seven were offered and admitted as 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:**

Did the claimant voluntarily quit her employment for reasons that qualify her to receive benefits, or did the employer discharge her for work-connected misconduct?

**FINDINGS OF FACT:**

The claimant started working for the employer on October 10, 2008. The claimant worked as a part-time cashier.

The claimant worked as scheduled on February 5, 2009. As of February 5, 2009, the claimant had received three written warnings for attendance issues. Before the employer discharged the claimant for attendance issues, she had to receive two more written warnings. If the claimant was unable to work as scheduled because she was ill, this absence would be excused if she brought the employer a doctor's statement verifying she had been ill and unable to work.

The claimant was scheduled to work February 11, 12, and 14. The claimant did not call or report to work these days. The claimant was also scheduled to work on February 15 and 17. (Employer Exhibits Six and Seven.) The claimant was ill February 14 through 17. When the claimant called the employer, the front end supervisor, Louis, told her she was not on the schedule. The claimant called two days to find out if she was scheduled to work. After she had been told by two employees she was not on the schedule, the claimant assumed the employer discharged her for attendance issues. On March 7, the Housing Authority received information the claimant's employment had ended on February 6, 2009.

The employer's attendance policy informs employees that the employer considers an employee to have voluntarily quit if the employee does not call or report to work for three consecutive shifts. The employer

concluded the claimant had voluntarily quit when she did not report to work or call the employer on February 11, 12 and 14. The claimant did not contact anyone in management or provide the employer with any documentation she had been ill and unable work after working on February 5, 2009.

**REASONING AND CONCLUSIONS OF LAW:**

The first issue to resolve is a credibility issue. The claimant testified she called the employer on February 11 and 12 and was told she was not scheduled to work. Since the claimant was scheduled to work these days, (Employer Exhibit Six) it is obvious the claimant did not call the employer on February 11 or 12. It is more likely she called the employer sometime after February 17. If she called on February 18 or 19, she was not scheduled the rest of the week and by then the employer would not have scheduled her to work, because she had missed five scheduled shifts without notifying the employer. (Employer Exhibits Six and Seven.)

A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quits employment without good cause attributable to the employer, or an employer discharges her for reasons constituting work-connected misconduct. Iowa Code §§ 96.5-1, 2-a. The evidence establishes the claimant voluntarily quit her employment after February 5 because even though she was scheduled to work on February 11, 12, 14, 15 and 17, she did not call or report to work. When a claimant quits, she has the burden to establish she quit for reasons that qualify her to receive benefits. Iowa Code § 96.6-2.

Although the claimant did not verbally resign, her failure to call or report to work for five scheduled days indicates she quit her employment. The claimant's failure to work as scheduled or call the employer on February 11 and 12 shows an intentional disregard of the employer's interests. The claimant testified she was not ill until February 14 through 17. Even if the claimant was ill, she failed to contact the employer any of the days she was scheduled to work after February 5. Additionally, the claimant failed to take reasonable steps to remain employed by contacting management and present information she had been ill and unable to work at least some of these shifts. The claimant essentially abandoned her employment.

The claimant may have had personal reasons for quitting, she did not, however, establish that she quit for reasons that qualify her to receive benefits. As of July 5, 2009, the claimant is not qualified to receive benefits.

**DECISION:**

The representative's August 12, 2009 decision (reference 01) is affirmed. The claimant voluntarily quit her employment for reasons that do not qualify her to receive benefits. The claimant is disqualified from receiving unemployment insurance benefits as of July 5, 2009. This disqualification continues until she has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The employer's account will not be charged.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

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