

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JENNIFER BUDDING**

Claimant

**APPEAL NO: 10A-UI-07896-BT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**WELLS FARGO BANK NA**

Employer

**OC: 05/02/10**

**Claimant: Appellant (1)**

Iowa Code § 96.5-1 - Voluntary Quit

**STATEMENT OF THE CASE:**

Jennifer Budding (claimant) appealed an unemployment insurance decision dated May 24, 2010, reference 01, which held that she was not eligible for unemployment insurance benefits because she voluntarily quit her employment (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 July 22, 2010. The claimant participated in the hearing. The employer participated through Michael Wilson, Loan Administration Supervisor and John O'Fallon, Employer Representative. 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 considered all of the evidence in the record, finds that: The claimant was hired as a full-time loan servicing specialist on September 17, 2007. She exhausted her paid time off in January and February 2010. Supervisor Michael Wilson advised the claimant to apply for leave under the Family Medical Leave Act and she did. The claimant was approved for FMLA from February 18, 2010 through March 31, 2010 and she was scheduled to return to work on April 1, 2010. She did not return to work and did not contact the employer on that date.

The employer sent the claimant a letter on April 14, 2010 requesting the status of her medical leave absence. The letter gave the claimant 15 days in which to contact the employer. There was no response from the claimant and the employer sent her a letter on April 30, 2010 denying a medical leave request since no paperwork had been received. This letter gave the claimant until May 14, 2010 to contact the employer. No contact was provided and the employer issued a letter dated May 18, 2010 which terminated her employment for her failure to call or return to work.

The claimant testified that she called her supervisor on March 15, 2010 to ask him if she could have April 6 and 7, 2010 off to take her kids to the doctor. The claimant's supervisor has nothing to do with approving time off for medical reasons. She contends her supervisor said he did not even know if she had a job and would get back to her. The claimant said her supervisor never contacted her and she tried to reach him on March 22, 26, and 29, 2010 but was unsuccessful. The supervisor testified there was no contact by the claimant. She did not return to work on April 1, 2010 because she assumed she had been fired. The claimant later added that she tried to call her supervisor on April 1, 2010 also. Although the employer sent three letters to the claimant, she denied receiving all but the termination letter dated May 18, 2010.

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

The issue is whether the claimant's voluntary separation from employment qualifies her to receive unemployment insurance benefits. She is not qualified to receive unemployment insurance benefits if she voluntarily quit without good cause attributable to the employer. Iowa Code § 96.5-1.

The claimant went on an approved leave of absence on February 18, 2010 and was scheduled to return to work on April 1, 2010. A leave of absence negotiated with the consent of both parties, employer and employee, is deemed a period of voluntary unemployment for the employee-individual, and the individual is considered ineligible for benefits for the period. 871 IAC 24.22(2)(j). If at the end of a period of negotiated leave of absence the employer fails to reemploy the employee-individual, the individual is considered laid off and eligible for benefits. 871 IAC 24.22(2)(j)(1). On the other hand, if the employee-individual fails to return at the end of the leave of absence and subsequently becomes unemployed the individual is considered as having voluntarily quit and therefore is ineligible for benefits. 871 IAC 24.22(j)(2).

The evidence in the record establishes that the claimant did, in fact, fail to return to the employment at the end of the leave of absence. Accordingly, the separation from the employment is deemed a voluntary quit and claimant is disqualified for benefits unless the quit is found to be for good cause attributable to the employer. The claimant testified she did not return to work because she believed she had been fired. Where an individual mistakenly believes that she is discharged and discontinues coming to work (but was never told she was discharged), the separation is a voluntary quit without cause attributable to the employer. LaGrange v. Iowa Department of Job Service, (Unpublished Iowa Appeals 1984).

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. She has not satisfied that burden and benefits are denied.

**DECISION:**

The unemployment insurance decision dated May 24, 2010, reference 01, 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.

---

Susan D. Ackerman  
Administrative Law Judge

---

Decision Dated and Mailed

sda/css