

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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**CAROL L CAVIL**  
Claimant

**MOD INC**  
Employer

**APPEAL NO. 14A-UI-10449-GT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 09/14/14  
Claimant: Appellant (1)**

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Iowa Code § 96.5-1 – Voluntary Quit

**STATEMENT OF THE CASE:**

Claimant filed an appeal from a decision of a representative dated September 30, 2014, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on October 27, 2014. Claimant participated. Employer participated by Jessica Armstrong, Manager.

**ISSUE:**

The issue in this matter is whether claimant quit for good cause attributable to employer?

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on August 26, 2014. Claimant missed a mandatory staff meeting on August 27, 2014 because she did not have childcare for her grandchild. Claimant heard from a co-worker that another co-worker had been offered work as a cook at the bar. Claimant thought that meant she had been fired for missing the mandatory meeting that was held on August 27, 2014.

Claimant went to the bar the next day on August 28, 2014 and talked to the bartender and explained that she thought she had been fired. Claimant was scheduled to work that day, and did not perform her duties as a cook because she thought she no longer had a job. No one at the bar told her she was fired.

On August 29, 2014 claimant was scheduled to work at the bar. Claimant came into work and cleaned out her things, and told the bartender that she was done working there. Claimant did not return to work after that date.

Claimant and the manager Jessica Armstrong had a heated discussion over the phone on or about September 1, 2014. Ms. Armstrong explained that claimant had not been fired from her job, and that the co-worker who had been hired was asked to work as a back-up cook.

## REASONING AND CONCLUSIONS OF LAW:

The administrative law judge holds that the evidence has failed to establish that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship because she thought her employment was terminated.

Iowa Code § 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.

Iowa Admin. Code r. 871-24.25(17) and (22) provide:

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 § 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 § 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:

(17) The claimant left because of lack of child care.

(22) The claimant left because of a personality conflict with the supervisor.

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). 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).

Generally, when an individual mistakenly believes they are discharged from employment, but was not told so by the employer, and they discontinue reporting for work, the separation is considered a quit without good cause attributable to the employer. Since claimant did not make sufficient efforts to follow up with management personnel or the owner, and her assumption of having been fired was erroneous, her failure to continue reporting to work was an abandonment of the job. Benefits are denied.

**DECISION:**

The decision of the representative dated September 30, 2014, reference 01, is affirmed. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.

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Duane L. Golden  
Administrative Law Judge

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Decision Dated and Mailed

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