

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**KELLI L SLY**  
Claimant

**APPEAL NO. 090-UI-11971-VST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**WELLS FARGO BANK NA**  
Employer

**Original Claim: 03/15/09  
Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Quit

**STATEMENT OF THE CASE:**

On August 19, 2009, the Employment Appeal Board remanded this case for a new hearing because the claimant had not received notice of the prior hearing. The claimant had filed an appeal from a representative's decision dated April 8, 2009, reference 01, which held the claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on September 2, 2009. The claimant participated. The employer participated by Marsha Bailey, customer service manager. The record consists of the testimony of Kelli Sly, the testimony of Marsha Bailey, and Employer's Exhibits 1 and 2.

**ISSUE:**

Whether the claimant voluntarily left for good cause attributable to the employer.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony of the witnesses and having considered all of the evidence in the record, makes the following findings of fact:

The claimant was hired on July 7, 2008, as a full-time customer service representative. Her employment ended on April 30, 2009, due to job abandonment.

The claimant was on approved leave through April 5, 2009. She returned to work on April 6, 2009. She did not come to work on April 7, 2009, but asked for bereavement leave from April 7, 2009, through April 14, 2009. The employer did permit bereavement leave, provided the leave qualified under the employer's policy. The claimant was asked for details concerning this leave and she did not provide them. On Friday April 17, 2009, the claimant left work early without permission. She asked for a second bereavement leave, but again did not respond to phone calls from the employer requesting additional information.

On April 27, 2009, the employer sent the claimant a letter by UPS stating that the claimant must provide additional documentation for her unapproved leaves by close of business on April 29,

2009. Tracking data showed that the claimant received the letter on April 28, 2009. The claimant did not contact the employer and did not return to work.

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

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.

A quit is a separation initiated by the employee. 871 IAC 24.1(113)(b). In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 698, 612 (Iowa 1980) and Peck v. EAB, 492 N.W.2d 438 (Iowa App. 1992). 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. See 871 IAC 24.25.

The evidence in this case established that the claimant intended to sever the employment relationship and did so by abandoning her job. She had been on unapproved leave and despite numerous requests from her employer to provide documentation for continuing absence, she did not respond. Although she testified that she did not receive the letter concerning the status of her employment until April 30, 2009, the employer had evidence that the letter was received on April 28, 2009. That letter specifically informed the claimant that she needed to take some type of action to preserve her employment. The claimant did not return to work and did not contact the employer to explain the circumstances of her continuing absence.

The claimant provided no evidence at the hearing to show that she was under a doctor's care or that she was off work for illness on the advice of a physician. She denied asking for bereavement leave, although Marsha Bailey's credible testimony was that she asked for bereavement leave on two occasions. For whatever reason, the greater weight of the evidence is that claimant decided to end the employment relationship. She has not produced any evidence that her leaving was for good cause attributable to the employer. Benefits are denied.

### **DECISION:**

The representative's decision dated April 8, 2009, reference 01, is affirmed. Unemployment insurance benefits shall be withheld until the claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

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Vicki L. Seeck  
Administrative Law Judge

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Decision Dated and Mailed

vls/kjw