

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MALEKA L HAWKINS

Claimant

APPEAL NO. 10A-UI-15228-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

GOODWILL INDUSTRIES OF SE IOWA

Employer

OC: 10/03/09

Claimant: Appellant (1)

Section 96.5(1) – Quit

STATEMENT OF THE CASE:

The claimant, Maleka Hawkins, filed an appeal from a decision dated October 29, 2010, reference 01. The decision disqualified her from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on December 17, 2010. The claimant participated on her own behalf and with Cortev Hawkins. The employer, Goodwill, participated by Director Kelley Gaul-Houser, Store Manager Tara Newbury and was represented by Xchanging in the person of Mary Kating.

ISSUE:

The issue is whether the claimant quit work with good cause attributable to the employer.

FINDINGS OF FACT:

Maleka Hawkins was employed by Goodwill from March 22, 2009 until October 5, 2010 as a full-time production clerk. At time of hire the claimant received a copy of the employee handbook which set out the attendance policy. The policy notifies employees being no-call/no-show to work for three days is considered a voluntary quit.

The claimant had received progressive disciplinary action for poor attendance. On September 30, 2010, she called and notified Store Manager Tara Newbury she would not be in to work due to a domestic situation which involved the police. She asked if she still had a job and Ms. Newbury said she did not know, she would have to consult with human resources, but that the claimant should come in to work. The claimant said she would try to be there but was no-call/no-show for the rest of the shift. She was no-call/no-show for her next scheduled shifts on October 1, 4 and 5, 2010.

The employer considered her to be a voluntary quit after being no-call/no-show for the third day on October 5, 2010 and a letter was sent by Human Resources Director Kelley Gaul-Houser notifying her she was considered a voluntary quit for job abandonment.

REASONING AND CONCLUSIONS OF LAW:

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.

871 IAC 24.25(4) provides:

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:

(4) The claimant was absent for three days without giving notice to employer in violation of company rule.

The claimant was no-call/no-show to work for three consecutive days in violation of a known company rule. Under the provisions of the above Administrative Code section, this is a voluntary quit without good cause attributable to the employer. The claimant is disqualified.

DECISION:

The representative's decision of October 29, 2010, reference 01, is affirmed. Maleka Hawkins is disqualified and benefits are withheld until she has earned ten times her weekly benefit amount, provided she is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/pjs