

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JENNIFER GREEN
Claimant

APPEAL NO. 14A-UI-09133-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

TMONE LLC
Employer

OC: 07/27/14
Claimant: Appellant (1)

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Jennifer Green (claimant) appealed a representative's August 29, 2014, decision (reference 01) that concluded she was not eligible to receive unemployment insurance benefits because she voluntarily quit work with TMone (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for September 23, 2014. The claimant participated personally. The employer participated by Lindsey Sinn, Employee Connections Manager; Shawn Ibbotson, Supervisor; and James Hunter, Center Director. The employer offered and Exhibit One was received into evidence.

ISSUE:

The issue is whether the claimant was separated from employment for any disqualifying reason.

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 on October 29, 2012, as a full-time customer service representative. The claimant signed for receipt of the employer's handbook at the time of hire. The employer gave employees about three or four weeks' notice that it was moving to a new location 2.3 miles from the old location. It suggested carpooling, arranged reduce fare taxi service, and pointed out the bus that arrived two blocks from the new location. July 28, 2014, was the day of the move. The claimant did not think she was scheduled for work that day.

On July 29, 2014, the claimant improperly reported by text that she did not have transportation to work or money. On July 30, 2014, the claimant improperly reported by text that she did not have transportation to work. She said she was going to the unemployment office.

On July 31, August 1 and 2, 2014, the claimant did not appear for work and did not call to inform the employer of the reason for the failure to appear for work. The employer has a policy that an employee will be considered to have quit if the employee is absent for three consecutive days without giving notice to the employer. The claimant was considered to have quit on August 4, 2014, for failing to appear for work without notice for three days.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge finds the claimant voluntarily quit work without good cause attributable to the employer.

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.

Iowa Admin. Code r. 871-24.25(4) and (1) 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 section 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 section 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.

(1) The claimant's lack of transportation to the work site unless the employer had agreed to furnish transportation.

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). The claimant's intention to voluntarily leave work was evidenced by her actions. The claimant was absent from work for three days without giving notice to the employer. The employer has a rule that if the employee is absent without notice to the employer for three days the employee is deemed to have voluntarily quit. The claimant is deemed to have voluntarily quit based on her absence from work for three days without giving notice to the employer.

When an employee quits work because of lack of transportation, her leaving is without good cause attributable to the employer. The claimant left work because she did not have transportation to work. Her leaving was without good cause attributable to the employer. The claimant voluntarily quit without good cause attributable to the employer. Benefits are denied.

DECISION:

The representative's August 29, 2014, decision (reference 01) is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times the claimant's weekly benefit amount, provided the claimant is otherwise eligible.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/css