

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

**TANIKKA S DIGGINS**  
Claimant

**APPEAL NO. 17A-UI-03595-B2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**WHIRLPOOL CORPORATION**  
Employer

**OC: 12/18/16**  
**Claimant: Appellant (1)**

Iowa Code § 96.5-1 – Voluntary Quit

**STATEMENT OF THE CASE:**

Claimant filed an appeal from a decision of a representative dated March 24, 2017, reference 02, which held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on April 26, 2017. Claimant participated. Employer participated by John West.

**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 February 24, 2017. Claimant was terminated from her position after three days of no call/ no show for work on February 27, 2017- February 29, 2017.

Claimant was going to school, and was attempting to get a leave of absence while she finished her schoolwork. Claimant stated that she went through employer's third party administrator for medical issues – Matrix – and was approved by Matrix for her leave. Employer stated that Matrix was only used for medical leave issues and other issues of illness and injuries. Employer further stated as a part of the union contract that was signed, issues of educational leave were to be dealt with by Whirlpool in house.

Claimant stated that Matrix approved her educational leave of absence a couple weeks before the leave was to take place, but offered no documentation of that approval. Employer stated that they have no documentation of claimant being approved by Matrix. Employer further stated that as of February 24, 2017 claimant was definitively not granted an educational leave of absence, as they were not allowed through the union contract. Employer stated that this information was available for claimant to peruse online, but employer did not have anyone specifically contact claimant.

Claimant did not come to work on February 27, 2017. Claimant started filing for unemployment benefits in the week ending March 25, 2017. Claimant stated that she thought she was still employed by employer until March 10, 2017, but she thought that she was eligible for benefits while on an educational leave of absence.

#### **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.

Iowa Admin. Code r. 871-24.22(2)j(1), (2) provides:

Benefits eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

(2) Available for work. The availability requirement is satisfied when an individual is willing, able, and ready to accept suitable work which the individual does not have good cause to refuse, that is, the individual is genuinely attached to the labor market. Since, under unemployment insurance laws, it is the availability of an individual that is required to be tested, the labor market must be described in terms of the individual. A labor market for an individual means a market for the type of service which the individual offers in the geographical area in which the individual offers the service. Market in that sense does not mean that job vacancies must exist; the purpose of unemployment insurance is to compensate for lack of job vacancies. It means only that the type of services which an individual is offering is generally performed in the geographical area in which the individual is offering the services.

j. Leave of absence. 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.

(1) If at the end of a period or term of negotiated leave of absence the employer fails to reemploy the employee-individual, the individual is considered laid off and eligible for benefits.

(2) 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.

Iowa Admin. Code r. 871-24.23(10) provides:

(10) The claimant requested and was granted a leave of absence, such period is deemed to be a period of voluntary unemployment and shall be considered ineligible for benefits for such period.

Iowa Admin. Code r. 871-24.25(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 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.

The claimant in this matter mistakenly believed that she would be eligible for benefits during a leave of absence for educational purposes. Whereas claimant would not have been eligible if a leave had been granted, the question before the administrative law judge is whether claimant had voluntarily quit her employment as shown through three consecutive days of being a no call/ no show for employment for three days, or in the alternative whether claimant had been terminated from her employment.

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 did not come to work after not receiving approval for an educational leave of absence. Absent that approval, claimant's act of three days without showing for work or calling in amounts to the equivalent of a voluntary quit.

**DECISION:**

The decision of the representative dated March 24, 2017, reference 02, 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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Blair A. Bennett  
Administrative Law Judge

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Decision Dated and Mailed

bab/rvs