

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**RHONDA ANDERSON**  
Claimant

**APPEAL NO: 13A-UI-12162-ET**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**LINK ASSOCIATES**  
Employer

**OC: 09/22/13  
Claimant: Respondent (2)**

Section 96.5-1 – Voluntary Leaving  
Section 96.3-7 – Recovery of Benefit Overpayment

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from the October 23, 2013, reference 02, decision that allowed benefits to the claimant. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on November 20, 2013 and continued on November 26, 2013. The claimant participated in the hearing. Arianne Hall, Residential Supervisor; Robin Stewart, Human Resources Manager; Rob Aiken, Residential Administrator; and Jay Bruns, Corporate Operations Director participated in the hearing on behalf of the employer. Claimant's Exhibits A through E and Employer's Exhibits One through Seven were admitted into evidence.

**ISSUE:**

The issue is whether the claimant voluntarily left his employment.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time life coach for Link Associates from January 6, 2011 to October 10, 2013. She worked from Friday at 8:00 a.m. to Saturday at 11:00 p.m. The employer determined she voluntarily quit her job by failing to maintain contact with the employer or respond to emails asking her to come in to meet with them about her extended absence.

On July 31, 2013, the claimant reported she had a stroke and provided the employer a doctor note excusing her through August 6, 2013. On August 7, 2013, the claimant emailed the employer and stated her neurologist said she could not drive. She indicated she would send further documentation from her physician but she was not being released to return to work yet.

On August 15, 2013, the employer sent the claimant family and medical leave (FML) paperwork because she had been gone more than three days. On August 19, 2013, the employer called the claimant and left her a voice mail message asking where the FML paperwork was. On August 21, 2013, the claimant called and stated her daughter was severely ill and she needed to spend time with her. The employer asked her if she could work August 23, 2013, and the claimant again stated she needed to spend time with her daughter and said she had intermittent

FML in order to be with her daughter. The employer further researched the intermittent FML issue and learned the claimant did have it but it was not to exceed one to two days per week. The employer attempted to call the claimant August 27, 2013, to explain that the intermittent leave applied to her daughter and no more than one to two days per week and that it was sending additional FML paperwork covering the claimant's daughter's illness if her status had changed. The employer then waited to hear from the claimant without success and consequently it tried to call the claimant September 17, 2013, to check on her well-being as well as her employment status. The claimant did not answer and the employer indicated in its voice mail message it was contacting her emergency contact September 18, 2013, if it did not hear from the claimant. On September 18, 2013, the employer called the claimant's mother, who was her emergency contact, and was told by the claimant's mother that she was under the impression the claimant was no longer employed with the employer. When told the employer still considered the claimant an employee, the claimant's mother stated she would let the claimant go as soon as possible. On September 25, 2013, the claimant emailed the employer and stated she was interested in transferring to a part-time position. On September 26, 2013, the employer left the claimant another voice mail notifying her of the requirements for transferring and also told her she needed to complete and supply all missing FML paperwork. On September 30, 2013, the employer left the claimant another voice mail message scheduling a meeting with the claimant to discuss the claimant's on-going employment with this employer. The meeting was scheduled for October 3, 2013, at 1:00 p.m. and the claimant had been instructed to bring her required FML paperwork as well and to be prepared to discuss a possible in-house transfer but rather than show up for the meeting the claimant sent an email stating she would not be able to attend the meeting without proposing an alternative meeting date and time and the employer determined that meant the claimant was quitting her position. The employer decided to give the claimant one more chance and sent her a letter October 3, 2013, allowing her one week to respond but the claimant failed to do so, and, as instructed in the letter, the employer decided the claimant voluntarily quit her job.

The claimant has not received any unemployment insurance benefits on this claim because she was determined not to be able and available for work.

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

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left her employment 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.

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 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 went out due to her own medical condition July 31, 2013, and did not complete the required FML paperwork before the employer determined she voluntarily quit her job October 10, 2013. While the claimant had intermittent FML to care for her seriously ill daughter prior to her own stroke at the end of July 2013, the two FML time frames run concurrently rather than separately. The claimant was allowed a total of 90 days of FML, including both her own and her daughter's, within a rolling 365 day time period. Inasmuch as the claimant failed to report for work or notify the employer for three consecutive work days or provide the employer with the required FML paperwork between July 31 and October 10, 2013, in violation of the employer's policy, she is considered to have voluntarily left her employment without good cause attributable to the employer. Therefore, benefits must be denied.

**DECISION:**

The October 23, 2013, reference 02, decision is reversed. The claimant voluntarily left her employment without good cause attributable to the employer. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. The claimant has not received any unemployment insurance benefits since her separation from this employer.

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Julie Elder  
Administrative Law Judge

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Decision Dated and Mailed

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