

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**KIMBERLEE K SAMS**  
Claimant

**APPEAL NO: 13A-UI-10862-DT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**DEE ZEE INC**  
Employer

**OC: 08/11/13**  
**Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Leaving

**STATEMENT OF THE CASE:**

Kimberlee K. Sams (claimant) appealed a representative's August 29, 2013 decision (reference 02) that concluded she was not qualified to receive unemployment insurance benefits after a separation from employment from Dee Zee, Inc. (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on October 21, 2013. The claimant participated in the hearing. Lacey Leichliter appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

Did the claimant voluntarily quit for a good cause attributable to the employer?

**FINDINGS OF FACT:**

The claimant started working for the employer on February 6, 2012. She worked full time as a line leader in the employer's truck accessory manufacturing business. Her last day of work was July 24, 2013.

The claimant had started taking an intermittent FMLA (Family Medical Leave) for the care of her mother as of March 20, 2013. As of July 25 she was on continuous FMLA for that purpose. The FMLA was set to expire as of July 31, 2013. The claimant was notified at least verbally and at least by August 2 that she was expected to return to work on August 5. She indicated that she did not believe she would be able to return by that time, and asked if she could get an additional ten days of personal leave. The claimant's supervisor advised her that the decision would have to be made by the employer's human resources department.

The claimant did not report for work in August 5 or days thereafter, nor did she follow up with human resources to learn if she would or could be granted the additional ten days of personal leave. Further, she did not seek to return to work after the possible ten day additional leave, and did not have any other contact with the employer after her conversation with her supervisor

on August 2. When the claimant did not return to work after her leave expired, the employer considered the claimant to have voluntarily quit by job abandonment.

**REASONING AND CONCLUSIONS OF LAW:**

If the claimant voluntarily quit her employment, she is not eligible for unemployment insurance benefits unless it was for good cause attributable to the employer. Iowa Code § 96.5-1.

Rule 871 IAC 24.25 provides that, 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. A voluntary leaving of employment requires an intention to terminate the employment relationship and an action to carry out that intent. *Bartelt v. Employment Appeal Board*, 494 N.W.2d 684 (Iowa 1993); *Wills v. Employment Appeal Board*, 447 N.W.2d 137, 138 (Iowa 1989). The intent to quit can be inferred in certain circumstances. For example, failing to report and perform duties as assigned is considered to be a voluntary quit. 871 IAC 24.25(27). The claimant did exhibit the intent to quit and did act to carry it out. The claimant would be disqualified for unemployment insurance benefits unless she voluntarily quit for good cause.

The claimant has the burden of proving that the voluntary quit was for a good cause that would not disqualify her. Iowa Code § 96.6-2. Quitting for a compelling personal or family reason is not for good cause attributable to the employer where the period of separation exceeds ten days and the claimant failed to return to work after the reason which compelled the quit has been resolved. 871 IAC 24.25(20); 871 IAC 24.26(8). The claimant has not satisfied her burden. Benefits are denied.

**DECISION:**

The representative's August 29, 2013 decision (reference 02) is affirmed. The claimant voluntarily left her employment without good cause attributable to the employer. As of August 5, 2013, benefits are withheld until such time as 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.

---

Lynette A. F. Donner  
Administrative Law Judge

---

Decision Dated and Mailed

ld/css