

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DENISE L LORENZEN
Claimant

APPEAL NO. 07A-UI-04154-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

HY-VEE INC
Employer

**OC: 12/31/06 R: 01
Claimant: Appellant (1)**

Section 96.5(1) – Quit

STATEMENT OF THE CASE:

The claimant, Denise Lorenzen, filed an appeal from a decision dated April 18, 2007, reference 07. The decision disqualified her from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on May 8, 2007. The claimant participated on her own behalf. The employer, Hy-Vee, participated by Human Resources Manager Kelly Nieland and was represented by TALX in the person of David Williams.

The claimant elected to use a cell phone to participate in the hearing. She was advised by the administrative law judge that the notice of hearing specifically recommended against the use of cell phones. The judge further advised her that if she lost the connection during the hearing, the judge would not call her back until such time as she contacted the Appeals Section to indicate she had either found another phone to use or that her cell phone was working again, but the hearing would continue without her participation and it might be over by the time she called back.

Ms. Lorenzen's cell phone disconnected shortly after the record was opened. By the time it was closed at 10:07 a.m., she had not contacted the Appeals Section to provide another phone number or to indicate her cell phone was working again and did not participate.

ISSUE:

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

FINDINGS OF FACT:

Denise Lorenzen was employed by Hy-Vee from January 17 until March 30, 2007, as a part-time kitchen clerk. She received a copy of the employee handbook, for which she signed a receipt on January 24, 2007. One of the provisions in the handbook informs employees they will be considered a voluntary quit if they are no-call/no-show to work for three days.

Ms. Lorenzen's last day of work was March 24, 2007, and her next scheduled shifts were March 26, 28, and 30, 2007. She did not appear for work for any of those shifts nor did she

contact the employer to say she would be absent. The employer considered her a voluntary quit.

REASONING AND CONCLUSIONS OF LAW:

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 was no-call/no-show to work for three days, in violation of a known company rule. As she did not participate in the hearing, Ms. Lorenzen did not establish any extenuating circumstances for her failure to appear for work or report her absence. Under the provisions of the above Administrative Code section, this is a voluntary quit without good cause attributable to the employer and the claimant is disqualified.

DECISION:

The representative's decision of April 18, 2007, reference 07, is affirmed. Denise Lorenzen 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/kjw