

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MARCI J DEYO

Claimant

APPEAL NO. 13A-UI-07346-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WELLS FARGO BANK

Employer

OC: 09/09/12

Claimant: Appellant (1)

Section 96.5(1) – Quit

STATEMENT OF THE CASE:

The claimant, Marci Deyo, filed an appeal from a decision dated June 11, 2013, reference 03. The decision disqualified her from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on July 26, 2013. The claimant participated on her own behalf. The employer, Wells Fargo, participated by Assistant Vice President Adam Mullinax and was represented by Barnett Associates in the person of James Franzeti.

ISSUE:

The issue is whether the claimant was discharged for misconduct sufficient to warrant a denial of unemployment benefits.

FINDINGS OF FACT:

Marci Deyo was employed by Wells Fargo from November 26, 2012 until May 21, 2013 as a full-time loan document specialist. Her last day of work was May 7, 2013, and she called in absent after that. On May 14, 2013, her manager, Craig Carlson, left her a voice mail notifying her she might want to contact human resources and see about a leave of absence. She did so and was told by the representative her supervisor would have to make the applications. Ms. Deyo called Mr. Carlson back and left him a message stating he would have to request the leave from human resources as she did not believe she would be back to work for a while.

After that she ceased calling in every day as required. She was no-call/no-show on April 16, 17, 20 and 21, 2013. She received a letter from Mr. Carlson notifying her she was considered a voluntary quit for being no-call/no-show to work for four days.

The claimant had not read the employee handbook which was available on line. The three-day no-call/no-show to work policy is listed in the handbook. Neither her manager nor the human resources representative told her she had to stop calling into work every day .

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.

If the claimant was not aware of the three-day no-call/no-show policy it was because she did not read the employee handbook as required. Her assumption that leaving a voice mail message for her manager saying she would not be back to work for an unspecified period of time was adequate notice of future absences was incorrect. She had not been approved for a leave of absence and only that would have relieved her of the obligation to call in daily to report her absence.

Ms. Deyo is considered a voluntary quit by operation of law under the provisions of the above Administrative Code section. Three days no-call/no-show to work is considered a voluntary quit without good cause attributable to the employer and the claimant is disqualified.

DECISION:

The representative's decision of June 11, 2013, reference 03, is affirmed. Marci Deyo is disqualified and benefits are withheld until she has earned ten times her weekly benefit amount in insured work, provided she is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/css