

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DONNA J STECKEL
Claimant

APPEAL NO. 07A-UI-05723-MT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MJ DISTRIBUTION INC
Employer

**OC: 05/13/07 R: 02
Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated June 1, 2007, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on June 26, 2007. Claimant participated. Employer participated by Jeff Finney, President.

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 May 10, 2007. Claimant had an altercation with a co worker on May 10, 2007. The coworker pushed claimant during the altercation. Claimant came to work the next day and saw the coworker's car. Claimant did not go in. Claimant missed three days in a row for the same reasons. Claimant then went into work after hours and found the locks changed on the third day. Employer assumed claimant quit because of the three no shows. Claimant did call but never reached her manager. Claimant did not make diligent efforts to contact the manager during the three no call days. Claimant knew the employer's email but did not use that to contact the employer. Claimant did not write a letter. Claimant never made actual contact with the employer during the first three days after the altercation. Claimant filed for unemployment on the morning of the third day. Claimant came into the office after hours on the third day.

REASONING AND CONCLUSIONS OF LAW:

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 of a conflict with a coworker. Claimant quit due to a conflict. Claimant did not come in to talk to her supervisor about the issue. Employer did not have the opportunity to take adequate remedial measures. Claimant did call in a few times but never reached the employer. Missing three days of work in a row is job abandonment. Filing for

unemployment on Tuesday morning, the third day, weighs heavily toward a finding of a voluntary quit. Coming in to work after hours on the third day also weighs heavily toward a finding of job abandonment. It appears that claimant was coming in after hours on the third day to pick up her belongings. Claimant did not properly inform the employer of the reason for her absences. This is a quit without cause attributable to employer due to job abandonment. Benefits withheld.

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(6) 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:

(6) The claimant left as a result of an inability to work with other employees.

DECISION:

The decision of the representative dated June 1, 2007, reference 01, 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.

Marlon Mormann
Administrative Law Judge

Decision Dated and Mailed

mdm/pjs