

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CANDACE HOLMES
Claimant

APPEAL NO. 09A-UI-02658-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

REACH FOR YOUR POTENTIAL INC
Employer

**Original Claim: 12/28/08
Claimant: Appellant (1)**

Iowa Code § 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Candace Holmes (claimant) appealed an unemployment insurance decision dated February 10, 2009, reference 03, which held that she was not eligible for unemployment insurance benefits because she voluntarily quit her employment with Reach For Your Potential, Inc. (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on March 16, 2009. The claimant participated in the hearing. The employer participated through Larisah Sheldon, Human Resources Director. Employer's Exhibits One through Three were admitted into evidence. 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:

The issue is whether the claimant's voluntary separation from employment qualifies her to receive unemployment insurance benefits.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds that: The claimant was employed as a part-time direct care provider from July 19, 2007 through December 28, 2008. The employer's attendance policy provides that an employee is considered a voluntary quit if she is a no-call/no-show for three consecutive workdays. The claimant was a no-call/no-show for three days ending on December 17, 2008. The employer received the claimant's time sheet in the mail on that same date and the postmark was from Chicago, Illinois. The claimant admitted she was in Chicago on December 17, 2008. Her supervisor called her cell phone on December 19, 20, 21, and 22 and left messages, but the claimant never returned the calls. The employer sent the claimant a letter on December 31, 2008 advising her she was considered to have voluntarily quit her employment as of December 28, 2008 after she missed ten consecutive shifts without calling.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the reasons for the claimant's separation from employment qualify her to receive unemployment insurance benefits. The claimant is not qualified to receive unemployment insurance benefits if she voluntarily quit without 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. In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980) and Peck v. Employment Appeal Bd., 492 N.W.2d 438 (Iowa Ct. App. 1992). The claimant demonstrated her intent to quit and acted to carry it out by missing work for ten consecutive shifts without contacting her employer. She contends she called the employer on the first three days, but the employer has no record of the claimant calling in.

The claimant was deemed a voluntary quit on December 28, 2008 after ten days of no-call/no-show. It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify her. Iowa Code § 96.6-2. The claimant has not satisfied that burden. Benefits are therefore denied.

DECISION:

The unemployment insurance decision dated February 10, 2009, reference 03, is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until she has worked in and has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/kjw