

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CEOLA B HULL
Claimant

APPEAL NO: 10A-UI-06227-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

HY-VEE INC
Employer

OC: 01/03/10

Claimant: Appellant (1)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

Ceola B. Hull (claimant) appealed a representative's April 19, 2010 decision (reference 01) that concluded she is not qualified to receive unemployment insurance benefits after a separation from employment from Hy-Vee, Inc. (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on June 9, 2010. The claimant participated in the hearing. Tim Speir of Unemployment Insurance Services appeared on the employer's behalf and presented testimony from two witnesses, Linda Smith and Traci McKoon. 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 May 20, 2009. She worked part time (about ten hours per week) as a kitchen clerk in the employer's Burlington, Iowa store. Her last day of work was November 11, 2009.

The claimant had previously worked more hours but had reduced her availability to the ten hour per week level in about August due to attending school. In September and October she had missed some work, and had some belief that she had been discharged because she was not on the schedule. However, on or about October 20 she was informed that she was not discharged, but that she had just needed to speak to Ms. Smith about her schedule so that she could get back on the schedule. The claimant then was scheduled and did work on October 29, October 30, October 31, November 7, November 8, and November 11.

A schedule was posted on November 9 showing the claimant as scheduled for November 17 and November 21. On November 17 the claimant called in an absence because she had no babysitter. On November 21 she was a no-call/no-show. She was also scheduled and was a no-call/no-show for work on November 26 and December 2. She did not further contact the

employer after November 17. When the claimant ceased calling or reporting for work, the employer considered her 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. The claimant has not satisfied her burden. Benefits are denied.

DECISION:

The representative's April 19, 2010 decision (reference 01) is affirmed. The claimant voluntarily left her employment without good cause attributable to the employer. As of November 21, 2009, 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