

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DAWN MAYNE
Claimant

APPEAL NO. 10A-UI-14513-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

ST VINCENT DE PAUL STORE
Employer

OC: 08-15-10
Claimant: Appellant (1)

Section 96.5-2-a – Discharge/Misconduct
871 IAC 24.32(7) – Excessive Unexcused Absenteeism

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the October 18, 2010, reference 01, decision that denied benefits to the claimant. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on December 8, 2010. The claimant participated in the hearing. Trace Ede, Director, and Roger Selken, Warehouse Manager, participated in the hearing on behalf of the employer.

ISSUE:

The issue is whether the claimant voluntarily left her employment.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time store manager for the St. Vincent De Paul Store from April 27, 2005 to August 16, 2010. She created a problem earlier in the day August 16, 2010, by allowing a customer to put 200 to 300 items on hold, which is in violation of company policy. During the middle of it, the claimant left for lunch while everyone else had to put products back from eight to ten shopping carts, before they could leave for lunch. The claimant subsequently left the store without permission at 4:00 p.m. The employer called her to tell her to return to the store. The claimant said she was going to the other store to help them with their bank deposit. It was not the claimant's responsibility to do this and the employer had already taken care of the deposit, so the claimant was again directed to return but she refused. The employer told the claimant if she failed to return, she would be disciplined. The employer's attendance policy provides 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 August 19, 2010 and was considered to have voluntarily quit her employment. She sent her son into the store August 20, 2010, to return her keys and to retrieve her paycheck.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left her employment without good cause attributable to the employer.

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.

871 IAC 24.25(28) 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:

(28) The claimant left after being reprimanded.

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code section 96.6-2. The claimant left work early and without authorization August 16, 2010. The employer directed her to return to work and advised her she would be disciplined. The claimant refused to return that day and thereafter. She was deemed a voluntary quit April 19, 2010, after three days of no-call, no-show. The claimant's separation from employment was without good cause attributable to the employer and benefits are denied.

DECISION:

The October 18, 2010, reference 01, decision is affirmed. The claimant voluntarily left her employment without good cause attributable to the employer. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/kjw