

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**CHRISTINA L NIELSEN**  
Claimant

**APPEAL NO. 12A-UI-05605-LT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ACKERMAN INVESTMENT CO**  
Employer

**OC: 02/26/12**  
**Claimant: Appellant (1)**

Iowa Code § 96.5(1) – Voluntary Leaving

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the May 8, 2012 (reference 01) decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call on June 6, 2012. Claimant participated. Employer participated through General Manager Troy Ficken.

**ISSUE:**

Did claimant voluntarily leave the employment with good cause attributable to employer?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed part-time as a front desk agent and was separated from employment on February 29, 2012. Her last day of work was February 27, 2012. She was a no-call, no-show on February 28, 2012 because she was in jail until February 29, 2012.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes claimant's separation from the employment was without good cause attributable to the employer.

Iowa Code § 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(16) 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 § 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 § 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:

(16) The claimant is deemed to have left if such claimant becomes incarcerated.

In the context of the Iowa Employment Security Law, the separation is considered a quit. An individual who leaves employment because of incarceration is presumed to have quit without good cause attributable to the employer. Iowa Admin. Code r. 871-24.25(16). An employer is entitled to expect its employees to report to work as scheduled or to be notified as to when and why the employee is unable to report to work. The claimant's incarceration causing her to miss work was not a good-cause reason for the separation attributable to the employer. Employer's attribution of the absence as a voluntary leaving of employment was reasonable, as it is not expected to hold employment for incarcerated employees. Benefits are denied.

**DECISION:**

The May 8, 2012 (reference 01) decision is affirmed. Claimant voluntarily left the 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.

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Dévon M. Lewis  
Administrative Law Judge

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Decision Dated and Mailed

dml/kjw