

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MARIA A MARTINEZ**  
Claimant

**APPEAL NO. 10A-UI-00581-DT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**DOLLAR TREE STORES INC**  
Employer

**Original Claim: 11/22/09  
Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Leaving

**STATEMENT OF THE CASE:**

Maria A. Martinez (claimant) appealed a representative's January 8, 2010 decision (reference 05) that concluded she was not qualified to receive unemployment insurance benefits after a separation from employment from Dollar Tree Stores, Inc. (employer). Hearing notices were mailed to the parties' last known addresses of record for a telephone hearing to be held at 1:00 p.m. on February 22, 2010. The claimant failed to respond to the hearing notice and provide a telephone number at which she could be reached for the hearing and did not participate in the hearing. The employer responded to the hearing notice and indicated that Jackie Freeman would participate as the employer's representative. When the administrative law judge contacted Ms. Freeman for the hearing, she agreed that the administrative law judge should make a determination based upon a review of the information in the administrative file. Based on a review of the information in the administrative file and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

Was there a disqualifying separation from employment either through a voluntary quit without good cause attributable to the employer or through a discharge for misconduct?

**FINDINGS OF FACT:**

The claimant started working for the employer on or about November 30, 2008. She worked part-time as a clerk. Her last day of work was on or about December 22, 2008. She was incarcerated on or about that date due to a probation violation. She was not released from prison until October 2009. The employer considered her employment ended for job abandonment effective December 22, 2008.

**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.

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. However, that intent can be expressed in various ways – the focus is on which party’s action actually ended the employment. An employee is deemed to have left without good cause if the employee is absent from work due to becoming incarcerated. 871 IAC 24.25(16). Benefits are denied.

**DECISION:**

The representative’s January 8, 2010 decision (reference 05) is affirmed. The claimant is deemed to have voluntarily left her employment without good cause attributable to the employer. As of December 22, 2008, 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.

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Lynette A. F. Donner  
Administrative Law Judge

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Decision Dated and Mailed

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