

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

COURTNEY D MTAYARI
Claimant

APPEAL NO. 07A-UI-06276-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**DES MOINES INDEPENDENT
COMMUNITY SCHOOL DISTRICT**
Employer

OC: 05/20/07 R: 02
Claimant: Respondent (2)

Section 96.5(1) – Quit

STATEMENT OF THE CASE:

The employer, Des Moines Independent Community School District, filed an appeal from a decision dated June 15, 2007, reference 02. The decision allowed benefits to the claimant, Courtney Mtayari. After due notice was issued, a hearing was held by telephone conference call on July 24, 2007. The claimant did not provide a telephone number where she could be contacted and did not participate. The employer participated by Risk Manager Cathy McKay.

ISSUE:

The issue is whether the claimant quit work with good cause attributable to the employer.

FINDINGS OF FACT:

Courtney Mtayari was employed by Des Moines Independent Community School District from October 16 until November 22, 2006, as a part-time care giver. At the time of employment, she attended orientation and received a copy of the collective bargaining agreement. One of the provisions of that agreement specifies an employee who is no-call/no-show to work for three days is considered a voluntary quit.

Ms. Mtayari was absent from work on November 16, 2006, and someone else called Coordinator Jane Bishop to say she was ill. This is not the proper way to call in, but Ms. Bishop accepted the call and informed the person that in the future all such calls should be placed to the substitute line, and provided the number. However, the claimant was no-call/no-show to work on November 20, 21, and 22, 2006, after which she was considered a voluntary quit.

Courtney Mtayari filed a claim for unemployment benefits with an effective date of May 20, 2007. The records of Iowa Workforce Development indicate no benefits have been paid as of the date of the hearing.

REASONING AND CONCLUSIONS OF LAW:

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.

The claimant was no-call/no-show to work for three consecutive days, in violation of a known company rule. Under the provisions of the above Administrative Code section, this is a voluntary quit without good cause attributable to the employer. The claimant is disqualified.

DECISION:

The representative's decision of June 15, 2007, reference 02, is reversed. Courtney Mtayari is disqualified and benefits are withheld until she has earned ten times her weekly benefit amount, provided she is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/kjw