

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DELANEA WADSWORTH

Claimant

APPEAL NO. 11A-UI-07455-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

ENTERPRISE RENT-A-CAR COMPANY

Employer

OC: 05-01-11

Claimant: Respondent (2-R)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

The employer filed a timely appeal from the May 25, 2011, reference 01, decision that allowed benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on June 30, 2011. The claimant did not respond to the hearing notice and did not participate in the hearing or request a postponement of the hearing as required by the hearing notice. Doug Reiser, airport market manager, and Erich Scanlon, branch manager, participated in the hearing on behalf of the employer.

ISSUE:

The issue is whether the claimant voluntarily left her employment with good cause attributable to the employer.

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 rental agent for Enterprise Rent-A-Car from May 24, 2010 to April 9, 2011. She went home early April 3, 2011, because her son was hit by a baseball, suffered a concussion, and was in the hospital. She called in April 4, 2011, and reported she would not be in because of her son's situation. She was a no-call, no-show April 5, 2011, but the employer gave her the benefit of the doubt because of her son. She was a no-call, no-show April 6, 2011, and did not answer the employer's calls asking where she was. Later that day, she texted the employer, "I won't be returning to work. I just have a lot on my personal plate right now." The employer tried to call her twice after receiving the text and tried again April 9, 2011, but never heard from the claimant again. The claimant never made any complaints about her hours, pay, or co-workers and had not faced any disciplinary action during her tenure with the employer.

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.

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. 871 IAC 24.25. Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3),(4). Leaving because of dissatisfaction with the work environment is not good cause. 871 IAC 24.25(1). 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 did not participate in the hearing and offer any evidence that her leaving was for good cause attributable to the employer. She did text the employer and state she was leaving her employment due to personal issues. Leaving because of personal problems does not constitute good cause attributable to the employer, which she is required to demonstrate in order to be awarded unemployment insurance benefits. Therefore, the claimant has not met her burden of proof. Benefits are denied.

The unemployment insurance law provides that benefits must be recovered from a claimant who receives benefits and is later determined to be ineligible for benefits, even though the claimant acted in good faith and was not otherwise at fault. However, the overpayment will not be recovered when it is based on a reversal on appeal of an initial determination to award benefits on an issue regarding the claimant's employment separation if: (1) the benefits were not received due to any fraud or willful misrepresentation by the claimant and (2) the employer did not participate in the initial proceeding to award benefits. The employer will not be charged for benefits whether or not the overpayment is recovered. Iowa Code section 96.3-7. In this case, the claimant has received benefits but was not eligible for those benefits. The matter of determining the amount of the overpayment and whether the overpayment should be recovered under Iowa Code section 96.3-7-b is remanded to the Agency.

DECISION:

The May 25, 2011, reference 01, decision is reversed. 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. The claimant has received benefits but was not eligible for those benefits. The matter of determining the amount of the overpayment and whether the overpayment should be recovered under Iowa Code section 96.3-7-b is remanded to the Agency.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/kjw