

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BRANDI S WYLIE-TULLY
Claimant

APPEAL NO. 13A-UI-11418-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

DOLGENCORP LLC
Employer

OC: 09/08/13
Claimant: Appellant (1)

Section 96.5(1) – Quit

STATEMENT OF THE CASE:

The claimant, Brandi Wylie-Tully, filed an appeal from a decision dated October 1, 2013, reference 01. The decision disqualified her from receiving unemployment benefits. After due notice was issued a hearing was held by telephone conference call on November 4, 2013. The claimant participated on her own behalf. The employer, Dolgencorp, participated by Store Manager Julie Carper.

ISSUE:

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

FINDINGS OF FACT:

Brandi Wylie-Tully was employed by Dollar General from May 2013 until September 10, 2013 as a part-time associate. The company policy requires any employee who is going to be absent to notify the manager and to find a replacement. Failure to come to work or find a replacement is considered an unexcused absence and will result in a written warning. Three warnings will result in discharge. Conversely, three no-call/no-shows is considered a voluntary quit.

Ms. Wylie-Tully notified Store Manager Julie Carper on September 6, 2013, she would not be in the next day because her grandfather was in the hospital. She was reminded she needed to find her own replacement. The next day she called to confirm she would not be in but did not find a replacement. Ms. Carper reminded her she must either find a replacement or come in to work her shift. She hung up on the manager at that time and did not return to work on September 7, 8 or 9, 2013, assuming she had been fired.

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 is considered a voluntary quit because she was a no-call/no-show to work for three days. She would not have been fired for one no-call/no-show but would have been given a warning. However, it would take three warnings before she reached the discharge stage. Where an individual mistakenly believes that he is discharged and discontinues coming to work (but was never told he was discharged), the separation is a voluntary quit without good cause attributable to the employer. *LaGrange v. IDJS*, (Unpublished, Iowa App. 1984). The administrative law judge considers the reasoning in that case to be pertinent here.

The record establishes the claimant is a voluntary quit without good cause attributable to the employer under the provisions of the above Administrative Code section, and is disqualified.

DECISION:

The representative's decision of October 1, 2013, reference 01, is affirmed. Brandi Wylie-Tully is disqualified and benefits are withheld until she has earned ten times her weekly benefit amount in insured work, provided she is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/pjs