

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SHELLY I CLARK
Claimant

APPEAL NO: 17A-UI-11303-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

WELLS ENTERPRISES INC
Employer

OC: 10/01/17
Claimant: Respondent (2)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

The employer filed a timely appeal from the October 25, 2017, reference 03, decision that allowed benefits to the claimant. After due notice was issued, a telephone hearing was held before Administrative Law Judge Julie Elder on November 22, 2017. 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. Jamie Johnson, Human Resources Generalist; Dan Stockmaster, Human Resources Generalist; Rocky Schmitz, Supervisor; Phyllis Farrell, Unemployment Insurance Consultant; and Alyce Smolsky, Employer Representative; 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 cat B in production for Wells Enterprises from December 19, 2016 to October 2, 2017. She notified the employer October 2, 2017, she would not be returning to work.

The employer operates on a no-fault, point based attendance policy and employees are terminated upon reaching ten points in a rolling calendar year. Employees receive a written coaching after accumulating seven occurrences; a written warning after accumulating eight occurrences; a final written warning after accumulating nine occurrences; and are discharged after accumulating ten occurrences.

The claimant received a written coaching September 19, 2017, for reaching seven attendance occurrences. She called in and reported her absence September 26, 27 and 28, 2017, and was a no-call/no-show October 1 and October 2, 2017. The employer called the claimant October 2, 2017, to see if she was okay and the claimant stated she would not be returning to work. Consequently, the employer determined the claimant voluntarily quit her job.

Because the claimant did not return to work, the employer was unable to present her with her written warning, final written warning and termination paperwork in person.

After opening her claim, the claimant has not made a weekly request for benefits or received any benefits since her separation from this employer.

The employer participated personally in the fact-finding interview through the statements of Unemployment Insurance Consultant Phyllis Farrell.

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 § 96.5-1 provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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 was a no-call/no-show October 1 and October 2, 2017, after calling in and reporting absences for personal reasons September 26 through September 29, 2017. Those absences placed her over the allowed number of attendance occurrences. The claimant did not participate in the hearing and the evidence does not establish the claimant's absences were due to illness. When the employer called the claimant October 2, 2017, she said she would not be returning. Under these circumstances, the administrative law judge finds the claimant has not met her burden of proving her leaving was for good cause attributable to the employer as that term is defined by Iowa law. Therefore, benefits must be denied.

DECISION:

The October 25, 2017, reference 03, 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 not received any benefits since her separation from this employer. Consequently, there is no overpayment of benefits.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/scn