

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MARISA VARGAS**  
Claimant

**APPEAL NO: 09A-UI-05404-BT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**DILLARD'S INC**  
Employer

**OC: 02/22/09**  
**Claimant: Appellant (1)**

Iowa Code § 96.5-1 - Voluntary Quit

**STATEMENT OF THE CASE:**

Marisa Vargas (claimant) appealed an unemployment insurance decision dated March 25, 2009, reference 01, which held that she was not eligible for unemployment insurance benefits because she voluntarily quit her employment with Dillard's, Inc. (employer) without good cause attributable to the employer. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on May 14, 2009. The claimant participated in the hearing. The employer participated through Alex Leon, Assistant Store Manager. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

The issue is whether the claimant's voluntary separation of employment qualifies her to receive unemployment insurance benefits?

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was employed as a full-time sales associate from April 2, 2007 through February 18, 2009. She went on a non-work-related medical leave from November 24, 2008 through February 18, 2009 when she was released to return to work. The claimant was hired to work weekends but when she returned to work, she was no longer willing and available to work weekends. The employer was unable to accommodate her requests and considered her a voluntary quit as of March 3, 2009 when her leave expired.

**REASONING AND CONCLUSIONS OF LAW:**

The issue is whether the claimant's voluntary separation from employment qualifies her to receive unemployment insurance benefits. She is not qualified to receive unemployment insurance benefits if she voluntarily quit without good cause attributable to the employer. Iowa Code § 96.5-1.

The claimant went on a non-work-related medical leave on November 24, 2008 and her medical leave expired on March 3, 2009. Her physician released her to return to work on February 18, 2009 and she returned to the employer to offer her services. In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980) and Peck v. Employment Appeal Bd., 492 N.W.2d 438 (Iowa Ct. App. 1992). The claimant demonstrated her intent to quit and acted to carry it out by refusing to work the hours for which she had been hired. Although she had always said she did not want to work Sundays, the claimant had previously worked both Saturdays and Sundays. However, when she returned to work, she was not available to work on either Saturday or Sunday. The employer does a majority of its business on the weekends and could not accommodate the claimant's new availability.

It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify her. Iowa Code § 96.6-2. She has not satisfied that burden and benefits are denied.

**DECISION:**

The unemployment insurance decision dated March 25, 2009, reference 01, is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until she has worked in and has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

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Susan D. Ackerman  
Administrative Law Judge

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Decision Dated and Mailed

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