

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**KATHRYN L GREINER**  
Claimant

**APPEAL NO. 09A-UI-01663-S2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**KUM & GO**  
Employer

**OC: 11/30/08 R: 03  
Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Quit  
Section 96.4-3 – Able and Available

**STATEMENT OF THE CASE:**

Kathryn Greiner (claimant) appealed a representative's January 29, 2009 decision (reference 03) that concluded she was not eligible to receive unemployment insurance benefits because she voluntarily quit work with Kum & Go (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for February 23, 2009. The claimant participated personally. The employer participated by Stephen Day, District Supervisor.

**ISSUE:**

The issue is whether the claimant voluntarily quit work without good cause attributable to the employer.

**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 hired on July 23, 2007, as a full-time general manager. The claimant gave notice that she was quitting to become a full-time student. Her last day of work was August 24, 2008. Continued work was available had the claimant not resigned. She was a full-time student until the school closed on November 25, 2008. The claimant was able and available for work after November 25, 2008. She filed for unemployment insurance benefits with an effective date of November 30, 2008.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow the administrative law judge concludes the claimant voluntarily quit work 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.

871 IAC 24.25(26) 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:

(26) The claimant left to go to school.

A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980). The claimant's intent to leave employment was evidenced by her words and actions. She told the employer that she was quitting and never returned the claimant voluntarily quit work. When a claimant quits work to return to school the leaving is without good cause attributable to the employer. The claimant quit work to return to school. Her leaving is without good cause attributable to the employer. The claimant voluntarily quit without good cause attributable to the employer. Benefits are denied.

871 IAC 24.23(5) provides:

(5) Full-time students devoting the major portion of their time and efforts to their studies are deemed to have no reasonable expectancy of securing employment except if the students are available to the same degree and to the same extent as they accrued wage credits they will meet the eligibility requirements of the law.

The claimant was a full-time student before she filed for unemployment insurance benefits. When a claimant is a full-time student, the claimant is deemed to not be available for work. The claimant is not disqualified from receiving unemployment insurance benefits because she was available for work after she was a full-time student.

**DECISION:**

The representative's January 29, 2009 decision (reference 03) is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times the

claimant's weekly benefit amount, provided the claimant is otherwise eligible. The claimant is not disqualified from receiving unemployment insurance benefits because she was available for work after she was a full-time student.

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Beth A. Scheetz  
Administrative Law Judge

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Decision Dated and Mailed

bas/pjs