

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**VIRGINIA VASQUEZ**  
Claimant

**APPEAL NO. 10A-UI-14242-ET**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**HOTT OFF THE PRESS PRINTING CO**  
Employer

**OC: 08-01-10**  
**Claimant: Appellant (1)**

Section 96.5-1 - Voluntary Leaving  
871 IAC 24.25(4) - Voluntary Quit Without Good Cause

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the October 8, 2010, reference 01, decision that denied benefits. After due notice was issued, a hearing was held in Des Moines, Iowa, before Administrative Law Judge Julie Elder on December 2, 2010. The hearing was completed on December 6, 2010 by telephone conference call. The claimant participated in the hearing with former employee Jan Debarito. Owner Dave Hott and Graphic Designer Lacey Riggs participated in the hearing on behalf of the employer.

**ISSUE:**

The issue is whether the claimant voluntarily left her employment.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a part-time general laborer for Hott Off the Press Printing Company from September 2008 to July 29, 2010. She missed work July 26 and 27, 2010, due to vehicle problems. The claimant found a ride to work July 28, 2010, because a co-worker called and needed help binding a book. A project was botched and the employer lost a customer as a result. The employer wanted to talk to the claimant about it, but the claimant refused to discuss the situation or to take any responsibility for it. The employer wanted the claimant to acknowledge that a customer had been lost, but she did not want to hear about it and would not accept any blame for the incident. The claimant was on her cell phone talking to her sister July 29, 2010, when the employer walked in. The claimant's sister had broken her ankle and the claimant was trying to arrange for her daughter to go help her sister. The work rules prohibit cell phone use while working and when the claimant got off the phone, the employer simply told her to go home. The claimant wanted to continue the conversation from the day before and she argued that she was not taking the blame for it because it was everyone's fault. They both raised their voices and the employer had to tell the claimant to leave six or seven times before she actually left. The claimant said if she left, she was not coming back. The employer did not fire the claimant or tell her not to return. The claimant was a no-call, no-show July 30, August 2,

and August 3, 2010. The employer tried calling her July 30, 2010, but the claimant never returned the call and the employer assumed she quit.

### **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.

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.

Rule 871 IAC 24.25 provides that, 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. 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 failing to return to work after July 29, 2010. She was deemed a voluntary quit August 3, 2010, after three days of no-call, no-shows and the claimant has failed to demonstrate her no-call, no-shows were attributable to the employer. Therefore, benefits are denied.

An individual who quits part-time employment without good cause, yet is otherwise monetarily eligible based on wages paid by other base-period employers, shall not be disqualified for voluntarily quitting the part-time employment. In the case herein, the claimant only has wages from this employer, so she is not monetarily eligible to receive benefits.

**DECISION:**

The October 8, 2010, reference 01, decision is affirmed. 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.

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Julie Elder  
Administrative Law Judge

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Decision Dated and Mailed

je/kjw