

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

COURTNEY L FENS

Claimant

APPEAL NO: 12A-UI-05690-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

FOCUS SERVICES LLC

Employer

OC: 03/18/12

Claimant: Respondent (4)

Section 96.5-1 – Voluntary Leaving/Requalification

STATEMENT OF THE CASE:

Focus Services, L.L.C. (employer) appealed a representative's May 10, 2012 decision (reference 04) that concluded Courtney L. Fens (claimant) was qualified to receive unemployment insurance benefits and the employer's account was subject to charge after a separation from employment on or about November 10, 2011. Hearing notices were mailed to the parties' last-known addresses of record for a telephone hearing to be held on June 7, 2012. The claimant failed to respond to the hearing notice and provide a telephone number at which she could be reached for the hearing and did not participate in the hearing. The employer responded to the hearing notice and indicated that Katherine Rossow would participate as the employer's representative. When the administrative law judge contacted the employer for the hearing, Ms. Rossow agreed that the administrative law judge should make a determination based upon a review of the available information.

ISSUE:

Did the claimant voluntarily quit, and if so is she disqualified from receiving unemployment insurance benefits?

FINDINGS OF FACT:

The claimant started working for the employer in September 2011. Her last day of work was on or about November 4, 2011. She was a no-call/no-show for scheduled work on November 7, November 8, and November 10, 2011, and was deemed to have voluntarily quit by job abandonment.

REASONING AND CONCLUSIONS OF LAW:

Rule 871 IAC24.25 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. A voluntary leaving of employment requires an intention to terminate the employment relationship. *Bartelt v. Employment Appeal Board*, 494 N.W.2d 684 (Iowa 1993). A three-day no-call/no-show in violation of company rule is considered to be a voluntary quit. 871 IAC 24.25(4). The claimant

did exhibit the intent to quit and did act to carry it out. The claimant would normally be disqualified for unemployment insurance benefits unless she voluntarily quit for good cause. The claimant has the burden of proving that the voluntary quit was for a good cause that would not disqualify her. Iowa Code § 96.6-2. The claimant has not satisfied her burden.

Iowa Code § 96.5-1-g 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. But the individual shall not be disqualified if the department finds that:

g. The individual left work voluntarily without good cause attributable to the employer under circumstances which did or would disqualify the individual for benefits, except as provided in paragraph "a" of this subsection but, subsequent to the leaving, the individual worked in and was paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

However, the administrative law judge further concludes from information contained in the administrative record that the claimant has requalified for benefits since the separation from this employer. Accordingly, regardless of whether the separation was disqualifying, benefits are allowed and the account of the employer shall not be charged.

DECISION:

The representative's May 10, 2012 decision (reference 04) is modified in favor of the appellant. The claimant voluntarily left her employment without good cause attributable to the employer, but has requalified for benefits since the separation. Benefits are allowed, provided the claimant is otherwise eligible. The account of the employer shall not be charged.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/css