

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ANGELA K SMITH
Claimant

APPEAL NO. 09A-UI-08847-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

THE UNIVERSITY OF IOWA
Employer

**Original Claim: 05-10-09
Claimant: Appellant (1)**

Iowa Code § 96.5(1) – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the June 10, 2009, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on July 7, 2009. The claimant did participate. The employer did participate through (representative) Nancy Kroeze, Clerk IV; Deborah Zumbach, Director of Purchasing; Karen Housel, Associate Director of Purchasing, Accounts Payable and Travel; Rhonda Weaver, Department Human Resources Specialist; and Ben Barreras, Supervisor.

ISSUE:

Did the claimant voluntarily quit her employment without good cause attributable to the employer?

FINDINGS OF FACT:

Having reviewed the testimony and all of the evidence in the record, the administrative law judge finds: Claimant was employed as a Clerk IV, full-time, beginning January 22, 2007, through May 11, 2009, when she voluntarily quit. The claimant quit because she did not believe that she should be suspended for three days for misusing the instant messaging program on her work computer. The employer was concerned about the claimant's low productivity, so it reviewed her internet usage as well as her use of the instant messaging program. The employer discovered that the claimant and another coworker were spending excessive amounts of time sending instant messages to each other that had nothing to do with work-related matters. The content of some of the instant messages was disparaging about coworkers and supervisors. On May 8 the claimant was shown the instant messages. She did not deny sending them; and although she was given the opportunity to read them, she chose not to do so. On May 11 the claimant was notified that she would be suspended for three days due to her misuse of the instant messaging program while on work time. Her coworker was suspended for five days. The claimant voluntarily quit her employment on May 11 because she did not agree with the suspension. Under the employer's policy, a copy of which had been given to the claimant, the employer was allowed to skip progressive steps in the warning procedures if they so chose. Continued work was available to the claimant after her suspension.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left the employment without good cause attributable to the employer.

Iowa Code § 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(28) 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 § 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 § 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:

(28) The claimant left after being reprimanded.

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). The administrative law judge is persuaded that the claimant knew or should have known that her personal use of the instant messaging system was excessive and led in part to her low productivity. The employer is allowed to discipline employees as they see fit. The employer followed their own policies. The claimant was not going to be discharged and she had the opportunity to appeal her suspension but did not do so. Under these circumstances, the administrative law judge is persuaded that while the claimant's decision to quit may have been based upon good personal reasons, it was not a good-cause reason attributable to the employer for leaving the employment. Benefits must be denied.

DECISION:

The June 10, 2009, 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.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/kjw