

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**FONZA G MCCULLER**  
Claimant

**APPEAL NO. 13A-UI-11329-S2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**J & D RESTAURANTS INC**  
Employer

**OC: 08/11/13**  
**Claimant: Appellant (1)**

Section 96.5-1 - Voluntary Quit

**STATEMENT OF THE CASE:**

Fonza McCuller (claimant) appealed a representative's September 25, 2013, decision (reference 04) that concluded she was not eligible to receive unemployment insurance benefits because she voluntarily quit work with J & D Restaurants (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for October 31, 2013. The claimant participated personally. The employer participated by Alisha Luke, General Manager.

**ISSUE:**

The issue is whether the claimant was separated from employment for any disqualifying reason.

**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 11, 2013, as a part-time crew person. The claimant worked through August 16, 2013. She stopped working because she was moving away from the area to go to school at William Penn University. The employer promised to put the claimant back on the work schedule as soon as the claimant provided the employer with the claimant's basketball schedule. The claimant never provided the employer with a basketball schedule. After a month the employer assumed the claimant quit work.

**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 actions. She told the employer she was leaving and never returned or called. 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.

**DECISION:**

The representative's September 25, 2013, decision (reference 04) 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.

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Beth A. Scheetz  
Administrative Law Judge

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Decision Dated and Mailed

bas/pjs