

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**CARRIE DAKE**  
Claimant

**APPEAL NO: 12A-UI-13907-BT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**KMART CORP**  
Employer

**OC: 03/04/12**  
**Claimant: Appellant (1)**

Iowa Code § 96.5-1 - Voluntary Quit

**STATEMENT OF THE CASE:**

Carrie Dake (claimant) appealed an unemployment insurance decision dated November 14, 2012, reference 02, which held that she was not eligible for unemployment insurance benefits because she voluntarily left her employment with Kmart Corporation (employer) without good cause attributable to the employer. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on January 7, 2013. The claimant participated in the hearing. Her boyfriend, Jonathan Messamer, was present with her but did not participate. The employer participated through Peggy Smith, Human Resources Manager. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

The issue is whether the claimant's voluntary separation from employment qualifies her to receive unemployment insurance benefits.

**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 as a part-time cashier on June 28, 2012 and was considered to have voluntarily quit effective September 24, 2012 after she quit reporting to work. Prior to her last day of work, she was a no-call/no-show on August 28, September 4 and September 5. The claimant was subsequently scheduled and was a no-call/no-show on September 7, 9, 10, 11, 12, 13 and 14.

**REASONING AND CONCLUSIONS OF LAW:**

The issue to be determined is whether the reasons for the claimant's separation from employment qualify her to receive unemployment insurance benefits. The claimant is not qualified to receive unemployment insurance benefits if she voluntarily quit without good cause attributable to the employer. Iowa Code § 96.5-1.

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 call or report for her shifts after September 6, 2012. She admitted she missed a lot of work due to medical reasons but claimed she called in to report her absences. However, the employer had no record of the claimant reporting her absences.

It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify her. Iowa Code § 96.6-2. She has not satisfied that burden. Benefits are therefore denied.

**DECISION:**

The unemployment insurance decision dated November 14, 2012, reference 02, is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until she has worked in and has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

---

Susan D. Ackerman  
Administrative Law Judge

---

Decision Dated and Mailed

sda/pjs