

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LAURA JUAREZ
Claimant

APPEAL NO. 11A-UI-01980-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TARGET CORPORATION
Employer

OC: 11/21/10
Claimant: Appellant (1)

Iowa Code § 96.5-1 - Voluntary Quit
871 IAC 24.23(10) - Leave of Absence

STATEMENT OF THE CASE:

Laura Juarez (claimant) appealed an unemployment insurance decision dated February 9, 2011, reference 02, which held that she was not eligible for unemployment insurance benefits because she was on a personal leave of absence from Target Corporation (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on March 7, 2011. The claimant provided a telephone number but was not available when that number was called for the hearing, and therefore, did not participate. The employer participated through Kate Tomka, executive team leader. Based on the evidence, the arguments of the party, 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 having considered all of the evidence in the record, finds that: The claimant was employed as a part-time sales floor team member from November 17, 2009 through October 29, 2010, when she went on a personal leave of absence. Her leave of absence expired on February 1, 2011, but she has not returned to work. The employer had a position available for her at the time she left and at the time she was scheduled to return.

REASONING AND CONCLUSIONS OF LAW:

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

871 IAC 24.23(10) provides:

(10) The claimant requested and was granted a leave of absence, such period is deemed to be a period of voluntary unemployment and shall be considered ineligible for benefits for such period.

871 IAC 24.25(23) 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:

(23) The claimant left voluntarily due to family responsibilities or serious family needs.

The claimant went on a personal leave of absence on October 29, 2010. A leave of absence negotiated with the consent of both parties, employer and employee, is deemed a period of voluntary unemployment for the employee-individual, and the individual is considered ineligible for benefits for the period. 871 IAC 24.22(2)(j). If at the end of a period of negotiated leave of absence the employer fails to reemploy the employee-individual, the individual is considered laid off and eligible for benefits. 871 IAC 24.22(2)(j)(1). On the other hand, if the employee-individual fails to return at the end of the leave of absence and subsequently becomes unemployed, the individual is considered as having voluntarily quit and is therefore ineligible for benefits. 871 IAC 24.22(j)(2). The evidence in the record establishes that the claimant did, in fact, fail to return to the employment at the end of the leave of absence.

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 failed to participate in the hearing and has not satisfied that burden. Benefits are denied.

DECISION:

The unemployment insurance decision dated February 9, 2011, 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/kjw