

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MARY J MILLER
Claimant

APPEAL NO. 09A-UI-02988-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

"DOLGENCORP LLC
"DOLLAR GENERAL
Employer

OC: 01/25/09
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Mary J. Miller filed a timely appeal from an unemployment insurance decision dated February 17, 2009, reference 01, that disqualified her for benefits. After due notice was issued, a telephone hearing was held March 19, 2009 with Ms. Miller participating on her own behalf. Store Manager Nicol Mallison participated for the employer, Dollar General.

ISSUE:

Did the claimant leave work with good cause attributable to the employer?

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Mary J. Miller was employed by Dollar General from October 30, 2007 through November 9, 2008. She last worked as a cashier. On November 13, 2009, Ms. Miller was arrested and incarcerated for driving under the influence. Her employment ended because of this.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence establishes that the claimant left work with good cause attributable to the employer. It does not.

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.

The law presumes that an individual who becomes unemployed because of being incarcerated leaves work voluntarily without good cause attributable to the employer. See

871 IAC 24.25(16). The evidence in the record establishes that the separation occurred within circumstances contemplated by the rule. Benefits are withheld.

DECISION:

The unemployment insurance decision dated February 17, 2009, reference 01, is affirmed. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs