

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**SHARON LUMPKINS**  
Claimant

**APPEAL 21A-UI-19135-DH-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**AMAZON COM SERVICES INC**  
Employer

**OC: 07/11/21  
Claimant: Appellant (5)**

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Iowa Code § 96.5(2)a - Discharge for Misconduct  
Iowa Code § 96.5(1) - Voluntary Quit  
Iowa Admin. Code r. 871-24.25(4) - Absent Three Days with no Notice  
Iowa Admin. Code r. 871-24.22(2)j(2) - Leave of Absence - Voluntary Quit

**STATEMENT OF THE CASE:**

The claimant/appellant, Sharon Lumpkins, filed an appeal from the August 26, 2021, (reference 01) unemployment insurance decision that concluded she was not eligible for unemployment insurance benefits due to her voluntary quit on June 30, 2021 for failing to report to work for three days in a row and not notifying their employer of the reason (no call/no show). Notices of hearing were mailed to the parties' last known addresses of record for a telephone hearing scheduled for October 19, 2021. The claimant participated. The employer, Amazon.com Services, Inc., failed to respond to the hearing notice and provide a telephone number at which they could be reached for the scheduled hearing. Judicial notice was taken of the administrative file and the records contained therein.

**ISSUE:**

Was the separation a layoff, discharge for misconduct or voluntary quit without good cause attributable to the employer?

**FINDINGS OF FACT:**

Having heard the testimony and reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed as a fulltime warehouse associate, with a set schedule, starting April 25, 2020, with her last day worked was April 20, 2021. Claimant was on approved leave of absences for the following periods: April 28, 2021 – May 12, 2021 and May 18, 2021 – June 7, 2021. Claimant failed to return from her leave of absence, no calling/no showing on June 22, 23, 24, 25, 26 and 29, wherein employer deemed her to have voluntarily quit. While there is proof in the record of an employee policy on attendance, there is no proof that employee received a copy.

There is proof in the record that employee no called/no showed on June 22, 23, 24, 25, 26 and 29. Claimant states April 20, 2021 was the last day she physically worked. She further states

that between her approved leaves of absences, they ran out on June 18, 2021. As such, both parties agree that claimant failed to return to work after her approved leave expired.

### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes claimant voluntarily quit by failing to return to work after her leave of absence ended, not for three days of no call / no show.

Iowa Admin. Code r. 871-24.25(4) 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:

(4) The claimant was absent for three days without giving notice to employer in violation of company rule.

This definition has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. *Huntoon v. Iowa Department of Job Service*, 275 N.W.2d 445, 448 (Iowa 1979).

The employer has the burden of proof in establishing disqualifying job misconduct. *Cosper v. Iowa Dep't of Job Serv.*, 321 N.W.2d 6 (Iowa 1982). The issue is not whether the employer made a correct decision in separating claimant, but whether the claimant is entitled to unemployment insurance benefits. *Infante v. Iowa Dep't of Job Serv.*, 364 N.W.2d 262 (Iowa Ct. App. 1984).

Employer failed to prove claimant received a copy of the employee handbook to know that missing three days of work without calling in could result in termination and therefore there was no warning to claimant regarding this issue. The employer did not meet their burden of proof. While employer may have had a good reason to terminate claimant, this disqualifying reason was not established.

However, when claimant failed to return to work after her leave of absence ended, missing work on June 22-26, and 29, 2021, the below issue arose.

Iowa Admin. Code r. 871-24.22(2)(2) provides:

Benefit eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

j. Leave of absence. 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.

(2) 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 therefore is ineligible for benefits.

Claimant's leaves of absence ended March 25, 2021. Claimant did not return to work (stating her last day worked was April 20, 2021. By not returning, she is a voluntarily quit, being separated from employment on June 30, 2021.

**DECISION:**

The August 26, 2021, (reference 01) unemployment insurance decision is **MODIFIED** with no change in effect. The claimant voluntarily quit their employment without good cause attributable to their employer, for failing to return to work after the expiration of her leave of absence. 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.



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Darrin T. Hamilton  
Administrative Law Judge

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November 5, 2021  
Decision Dated and Mailed

dh/kmj