

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CYNTHIA M. WATERS
Claimant

APPEAL NO. 09A-UI-07291-VST

**ADMINISTRATIVE LAW JUDGE
DECISION**

**UNITED STATES CELLULAR
CORPORATION**
Employer

OC: 04/05/09
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated May 7 , 2009, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on June 5, 2009. Claimant participated. Employer participated by Alisha Binns, Customer Service Coach, and Paula Rosenbaum, Associate Relations Representative. The record consists of the testimony of Cynthia Waters; the testimony of Alisha Binns; and the testimony of Paula Rosenbaum.

ISSUE:

Whether the claimant voluntarily quit with good cause attributable to the employer

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witnesses and having considered all of the evidence in the record, makes the following findings of fact:

The claimant was hired on August 4, 2008, as a customer service representative. The employer is a call center. The claimant was off work from February 18, 2009, through February 22, 2009 and returned to work on February 23, 2009. The claimant was a no-call/no-show on February 18, 2009, and was absent on February 22, 2009, because she needed to pick up her children from her ex-husband. On February 24, 2009, the claimant developed severe pain that was eventually attributed to an infection involving her kidney. The claimant was advised on February 26, 2009, to file a claim for short-term disability benefits with the Reed Group, which administered the employer's short-term disability plan. The claimant did contact the Reed Group on February 27, 2009, and opened a claim. She did not, however, return the proper paperwork to the Reed Group and her short-term disability request was denied.

Alisha Binns tried to contact the claimant by telephone on March 2, 2009, and March 3, 2009. She left voicemail messages for the claimant, but the claimant did not return those calls. After the claimant's short-term disability claim was denied and after the time for appealing that denial

expired, the employer sent a certified letter to the claimant indicating that she was separated from her employment due to job abandonment. The United States Postal Service attempted to deliver the letter on March 21, 2009; March 26, 2009; and April 6, 2009. The claimant did not sign for the letter. The claimant moved her residence on March 28, 2009.

REASONING AND CONCLUSIONS OF LAW:

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.

A quit is a separation initiated by the employee. 871 IAC 24.1(113)(b). In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 698, 612 (Iowa 1980) and Peck v. EAB, 492 N.W.2d 438 (Iowa App. 1992). 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. See 871 IAC 24.25.

The employer in this case determined that the claimant had abandoned her job and in essence was a voluntary quit. An examination of the claimant's conduct after she left work early on February 24, 2009, leads to a conclusion that the claimant did abandon her job and was a voluntary quit. While it is true that there is no single incident that evinces the claimant's intent to sever the employment relationship, it can be reasonably inferred from the claimant's inaction that she had voluntarily quit her job without good cause attributable to the employer. The claimant opened a short-term disability claim but did not secure the necessary paperwork to support the claim. She did not return calls from the employer on her status. She did not claim a certified letter, even though delivery was attempted at her home while she was still living there. No medical records were produced at hearing that might account for the claimant's failure to follow through with her short-term disability claim.

The employer's witnesses were credible concerning their attempts to contact the claimant and ascertain her status. For whatever reason, the claimant did not communicate with the employer on where things stood as far as her availability to work. When the evidence is viewed as a whole, the most reasonable conclusion is that the claimant voluntarily quit her job without good cause attributable to the employer.

DECISION:

The decision of the representative dated May 7, 2009, reference 01, is affirmed. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for

insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.

Vicki L. Seeck
Administrative Law Judge

Decision Dated and Mailed

vls/css