

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**TETA MORRIS**  
Claimant

**TPI IOWA LLC**  
Employer

**APPEAL 21A-UI-15169-JC-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 04/12/20**  
**Claimant: Appellant (1)**

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Iowa Code § 96.5(1) – Voluntary Quitting  
Iowa Code § 96.5(2)a – Discharge for Misconduct

**STATEMENT OF THE CASE:**

The claimant/appellant, Teta Morris, filed an appeal from the June 28, 2021 (reference 02) Iowa Workforce Development (“IWD”) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on August 30, 2021. The hearing was held together with Appeal 21A-UI-15168-JC-T. The claimant participated personally. The employer TPI Iowa LLC., was represented by Danielle Williams, senior human resources coordinator. Department Exhibit D-1, D-2 and Employer Exhibits 1-11 were admitted. The administrative law judge took official notice of the administrative records. Department Exhibit Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUES:**

Did claimant voluntarily quit the employment with good cause attributable to employer?  
Was the claimant discharged for disqualifying job-related misconduct?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began work for this employer in 2016. She last physically worked March 24, 2021 and separation occurred on April 9, 2021.

Claimant was trained on employer policies at the time of hire in 2016 and throughout employment. This included calling the employer’s “finishing line” prior to a shift if she was unable to work and having three consecutive no call/no shows will result in a separation due to job abandonment. If claimant intended to have an absence covered by FMLA, she was required to contact her employer and also UNUM, the employer’s leave administrator.

Employer last physically worked on March 24, 2021. Claimant has four children, including a young son who had a stroke in 2020. As a result, her son requires continuous medical care. Claimant was absent March 25-April 7, 2021. Employer reports the claimant’s last contact with

UNUM, initiated by UNUM and was April 2, 2021 (See Employer Exhibit 7-11). Employer reported claimant was a no call/no show for April 2, 3, and 7, 2021. On April 8, 2021, employer's human resources representative contacted claimant regarding her absences. Claimant stated the call in line did not work and she had called her direct manager each day who said he would "take care of it". Claimant stated she had also called UNUM. Employer disputed claimant's account of events on the basis that it was her manager that reported to human resources the no call/no shows. Separation thereby ensued on April 9, 2021.

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

**For the reasons that follow, the administrative law judge administrative affirms the initial decision denying benefits.**

An unemployed person who meets the basic eligibility criteria receives benefits unless they are disqualified for some reason. Iowa Code § 96.4. Generally, disqualification from benefits is based on three provisions of the unemployment insurance law that disqualify claimants until they have been reemployed and they have been reemployed and have been paid wages for insured work equal to ten times their weekly benefit amount. An individual is subject to such a disqualification if the individual (1) "has left work voluntarily without good cause attributable to the individual's employer" Iowa Code § 96.5(1) or (2) is discharged for work –connected misconduct, Iowa Code § 96.5(2) a, or (3) fails to accept suitable work without good cause, Iowa Code § 96.5(3).

The first two disqualifications are premised on the occurrence of a separation of employment. To be disqualified based on the nature of the separation, the claimant must either have been fired for misconduct or have quit but not for good cause attributable to the employer. Generally, the employer bears the burden of proving disqualification of the claimant. Iowa Code § 96.6(2). Where a claimant has quit, however, the claimant has "the burden of proving that a voluntary quit was for good cause attributable to the employer pursuant to Iowa Code section § 96.5(1). Since the employer has the burden of proving disqualification, and the claimant only has the burden of proving the justification for a quit, the employer also has the burden of providing that a particular separation was a quit. The Iowa Supreme Court has thus been explicitly, "the employer has the burden of proving that a claimant's department from employment was voluntary." *Irving v. Employment Appeal Board*, 883, NW 2d 179, 210 (Iowa 2016).

*Quit not shown:* 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 voluntary quitting of employment requires that an employee exercise a voluntary choice between remaining employed or terminating the employment relationship. *Wills v. Emp't Appeal Bd.*, 447 N.W.2d 137, 138 (Iowa 1989); *Peck v. Emp't Appeal Bd.*, 492 N.W.2d 438, 440 (Iowa Ct. App. 1992). Generally, a quit is defined to be a "termination of employment initiated by the employee for any reason except mandatory retirement or transfer to another establishment of the same firm, or for service in the armed forces." Furthermore, voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980). The employer has the burden of providing that the claimant is disqualified for benefits pursuant to Iowa Code § 96.5.

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.

It is the duty of the administrative law judge as the trier of fact in this case, to determine the credibility of witnesses, weigh the evidence and decide the facts in issue. *Arndt v. City of LeClaire*, 728 N.W.2d 389, 394-395 (Iowa 2007). The administrative law judge may believe all, part or none of any witness's testimony. *State v. Holtz*, 548 N.W.2d 162, 163 (Iowa App. 1996). In assessing the credibility of witnesses, the administrative law judge should consider the evidence using his or her own observations, common sense and experience. *Id.* In determining the facts, and deciding what testimony to believe, the fact finder may consider the following factors: whether the testimony is reasonable and consistent with other believable evidence; whether a witness has made inconsistent statements; the witness's appearance, conduct, age, intelligence, memory and knowledge of the facts; and the witness's interest in the trial, their motive, candor, bias and prejudice. *Id.* Assessing the credibility of the witnesses and reliability of the evidence in conjunction with the applicable burden of proof, as shown in the factual conclusions reached in the above-noted findings of fact, the administrative law judge concludes that the employer has not satisfied its burden to establish by a preponderance of the evidence that the claimant called both UNUM, the employer's leave administrator, and the employer's designated line for reporting absences, as directed by employer policies. The employer's records from UNUM support claimant's last contact during the period of no call/no shows was UNUM contacting claimant, and employer further credibly testified that claimant's managers reported the no call/no shows to human resources, which would support employer's position that claimant had not made contact with the employer for the three days.

The administrative law judge is sympathetic to the claimant and recognizes the challenges she faced balancing her family responsibilities and work, but finds claimant did not properly report her absences as required for three days, which caused separation by job abandonment. Benefits are withheld.

**DECISION:**

The June 28, 2021 (reference 02) Iowa Workforce Development (“IWD”) unemployment insurance decision that denied benefits is affirmed. The claimant voluntarily quit the employment without good cause attributable to the employer. 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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Jennifer L. Beckman  
Administrative Law Judge  
Unemployment Insurance Appeals Bureau  
Iowa Workforce Development  
1000 East Grand Avenue  
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Fax 515-478-3528

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September 20, 2021  
Decision Dated and Mailed

jlb/kmj

**NOTE TO CLAIMANT:** This decision determines you are not eligible for regular unemployment insurance benefits. If you disagree with this decision you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision. Individuals who do not qualify for regular unemployment insurance benefits, but who are unemployed or continue to be unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>. If this decision becomes final or if you are not eligible for PUA, you may have an overpayment of benefits.

**ATTENTION:** On May 11, 2021, Governor Reynolds announced that Iowa will end its participation in federal pandemic-related unemployment benefit programs effective June 12, 2021. The last payable week for PUA in Iowa will be the week ending June 12, 2021. Additional information can be found in the press release at <https://www.iowaworkforcedevelopment.gov/iowa-end-participation-federal-unemployment-benefit-programs-citing-strong-labor-market-and>.

You may find information about food, housing, and other resources at <https://covidrecoveryiowa.org/> or at <https://dhs.iowa.gov/node/3250>

Iowa Finance Authority also has additional resources at <https://www.iowafinance.com/about/covid-19-ifa-recovery-assistance/>