

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TAMARA HARDAWAY
Claimant

APPEAL NO. 13A-UI-12906-VST

**ADMINISTRATIVE LAW JUDGE
DECISION**

CLUB DEMONSTRATION SERVICES INC
Employer

**OC: 06/16/13
Claimant: Appellant (2)**

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

The claimant filed an appeal from a representative's decision dated November 14, 2013, reference 03, which held that the claimant was ineligible for unemployment insurance benefits. After due notice, a hearing was held on December 10, 2013, by telephone conference call. The claimant participated personally. The employer failed to respond to the hearing notice and did not participate. A copy of the C2t hearing control sheet is enclosed with this file, which shows that the employer failed to provide a telephone number at which a representative could be reached. The record consists of the testimony of Tamara Hardaway.

ISSUE:

Whether the claimant was separated from her employment for any disqualifying reason.

FINDINGS OF FACT:

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

The employer demonstrates products and distributes coupons in retail establishments. The claimant did product demonstration in the Costco store located in Coralville, Iowa. She was a part-time employee. She was hired on June 12, 2012.

On October 27, 2013, another employee got angry with the claimant because she thought the claimant had reported her to management. The claimant did not do this. The other employee reported this to the shift supervisor, Shannon, who told the claimant to go home. The claimant was taken off the schedule and assumed she had been laid off by the employer. She was never called to go back to work. The claimant did not quit her job.

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 claimant is eligible for unemployment insurance benefits. The exact nature of the separation of employment in this case is difficult to discern, largely due to the employer's failure to participate in the hearing. What can be determined with some certainty is that the claimant did not quit her job. She felt she was laid off but she also may have been terminated by the employer. If she was terminated there is no evidence of misconduct. The administrative law judge concludes that the claimant was separated from her employment for no disqualifying reason. Benefits are allowed if the claimant is otherwise eligible.

DECISION:

The decision of the representative dated November 14, 2013, reference 03, is reversed. Unemployment insurance benefits are allowed, if the claimant is otherwise eligible.

Vicki L. Seeck
Administrative Law Judge

Decision Dated and Mailed

vls/css