

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TABITHA DENCKLAU
Claimant

APPEAL NO. 14A-UI-08901-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

EXCEPTIONAL PERSONS INC
Employer

OC: 08/03/14
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Tabitha Dencklau (claimant) appealed a representative's August 19, 2014 (reference 01) decision that concluded she was not eligible to receive unemployment insurance benefits because she voluntarily quit work with Exceptional Persons (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for September 15, 2014. The claimant participated personally. The employer participated by Lisa Paterno, Human Resource Director.

ISSUE:

The issue is whether the claimant was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on July 24, 2013 as a full-time direct support professional. As a requirement of her job she had to have a working vehicle and insurance on the vehicle. On or about March 14, 2014 the claimant was transferred to the position of floating group leader. The new job was also a direct support professional position and carried the same vehicle and insurance requirement.

On May 9, 2014 the claimant reported to her supervisor that her vehicle was not drivable. The claimant had no plans to fix the vehicle because the repairs cost more than the vehicle. She did not have a car she could borrow and had no plans to purchase a replacement until November 2014. On July 3, 2014 the claimant informed the employer she did not plan to renew her auto insurance.

On July 3, 2014 the employer issued the claimant a thirty-day status form. It notified the claimant she had thirty days to comply with the requirements of her job or she would be terminated. The claimant also had the option of requesting another position from the employer. On July 10, 2014 the claimant gave the employer notice of her resignation effective July 24, 2014. Continued work was available had the claimant not resigned.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant voluntarily quit work without good cause attributable to the employer.

Iowa Code § 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.

Iowa Admin. Code r. 871-24.25(27), (28) 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:

(27) The claimant left rather than perform the assigned work as instructed.

(28) The claimant left after being reprimanded.

A 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 claimant's intention to voluntarily leave work was evidenced by her words and actions. She told the employer she was leaving and quit work. When an employee quits work after having been reprimanded or rather than fulfilling the requirements of the job, her leaving is without good cause attributable to the employer. The claimant left work after having been reprimanded and left rather than fulfilling the requirements of the job. Her leaving was without good cause attributable to the employer. The claimant voluntarily quit without good cause attributable to the employer. Benefits are denied.

DECISION:

The representative's August 19, 2014 (reference 01) decision is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times the claimant's weekly benefit amount, provided the claimant is otherwise eligible.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

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