

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MARGARITA PEREZ**

Claimant

**APPEAL NO. 11A-UI-07282-CT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**PROFESSIONAL BUILDING SERVICES**

Employer

**OC: 05/30/10**

**Claimant: Appellant (1-R)**

Section 96.5(1) – Voluntary Quit

**STATEMENT OF THE CASE:**

Margarita Perez filed an appeal from a representative's decision dated May 31, 2011, reference 02, which denied benefits based on her separation from Professional Building Services (PBS). After due notice was issued, a hearing was held by telephone on July 19, 2011. Ms. Perez participated personally. The employer participated by Kathy Whitcher, operations manager. Ike Rocha participated as the interpreter.

**ISSUE:**

At issue in this matter is whether Ms. Perez was separated from employment for any disqualifying reason.

**FINDINGS OF FACT:**

Having heard the testimony and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Perez began working for PBS on October 10, 2008. She worked from 12 to 15 hours each week as a cleaner. She notified the employer that she was quitting because she was going out of town for two months. She planned to go to Mexico because her father was having surgery. She did not request a leave of absence from her job with PBS.

Continued part-time work would have been available with PBS if Ms. Perez had not quit on February 28, 2011. She did not go to Mexico as planned but did not contact PBS about remaining in the job. She did not have a firm commitment for other employment when she quit PBS.

**REASONING AND CONCLUSIONS OF LAW:**

An individual who leaves employment voluntarily is disqualified from receiving job insurance benefits unless the quit was for good cause attributable to the employer. Iowa Code section 96.5(1). Ms. Perez quit her job in anticipation of going to Mexico for two months because of her father's planned surgery. An individual who leaves employment due to serious family needs or responsibilities is presumed to have quit without good cause attributable to the

employer. See 871 IAC 24.25(23). For the above reasons, the separation was not for good cause attributable to the employer. As such, the separation was a disqualifying event.

The evidence of record failed to establish to the satisfaction of the administrative law judge that Ms. Perez had actually been offered other employment when she left PBS. She testified that the job was offered approximately one month before she left PBS. One would have to wonder why she did not immediately leave PBS to accept the new job. Moreover, she did not start the new job in spite of the fact that she did not go to Mexico as planned. The above factors are persuasive in concluding that there had not been an actual offer of work as required for an allowance pursuant to Iowa Code section 96.5(1)a.

After considering all of the evidence, it is concluded that Ms. Perez did not have good cause attributable to the employer for quitting. Her separation does not fit within any exception created by law. An individual who voluntarily quits part-time employment without good cause attributable to the employer may still qualify for benefits if she has sufficient other wage credits during the base period on which to base a valid claim. 871 IAC 24.27(96). This matter shall be remanded to Claims to determine if Ms. Perez has sufficient other wage credits on which to base a valid claim.

**DECISION:**

The representative's decision dated May 31, 2011, reference 02, is hereby affirmed. Ms. Perez voluntarily quit her part-time employment without good cause attributable to the employer. Wage credits earned with PBS may not be used on her claim until she has worked in and been paid wages for insured work equal to ten times her weekly job insurance benefit amount. This matter is remanded to Claims to determine if Ms. Perez has sufficient other wage credits on which to base a valid claim.

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Carolyn F. Coleman  
Administrative Law Judge

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Decision Dated and Mailed

cfc/kjw