

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SARA A DODGE
Claimant

APPEAL NO. 07A-UI-06393-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

UPPER DES MOINES OPPORTUNITY INC
Employer

**OC: 06/11/06 R: 02
Claimant: Respondent (4)**

Section 96.19(38)a & b – Total and Partial Unemployment
Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Upper Des Moines Opportunity (employer) appealed a representative's June 21, 2007 decision (reference 02) that concluded Sara Dodge (claimant) was eligible to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on July 17, 2007. The claimant participated personally. The employer participated by Mary Rasmussen, Human Resources Director.

ISSUE:

The issue is whether the claimant was eligible to receive unemployment insurance benefits.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds that: The claimant was hired on August 12, 2002, as a toddler teacher. She worked full-time from August through approximately May 22 each year. She was part-time from about May 22 to June 22 each year. On April 11, 2007, the claimant gave written notice to the employer that she was resigning as of June 22, 2007, to stay home with her children. Her hours reduced to part-time on or about May 22, 2007. She filed for unemployment insurance benefits for the two-week period ending June 23, 2007. June 22, 2007, was the claimant's last day of work. Continued work was available had the claimant not resigned.

The employer and claimant agree the claimant should receive unemployment insurance benefits through June 23, 2007.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant is partially unemployed for the two weeks ending June 23, 2007.

Iowa Code section 96.19-38 provides:

"Total and partial unemployment".

- a. An individual shall be deemed "totally unemployed" in any week with respect to which no wages are payable to the individual and during which the individual performs no services.
- b. An individual shall be deemed partially unemployed in any week in which, while employed at the individual's then regular job, the individual works less than the regular full-time week and in which the individual earns less than the individual's weekly benefit amount plus fifteen dollars.

An individual shall be deemed partially unemployed in any week in which the individual, having been separated from the individual's regular job, earns at odd jobs less than the individual's weekly benefit amount plus fifteen dollars.

- c. An individual shall be deemed temporarily unemployed if for a period, verified by the department, not to exceed four consecutive weeks, the individual is unemployed due to a plant shutdown, vacation, inventory, lack of work or emergency from the individual's regular job or trade in which the individual worked full-time and will again work full-time, if the individual's employment, although temporarily suspended, has not been terminated.

The claimant was employed less than her regular full-time hours and she is considered partially unemployed. Benefits may be allowed based upon reporting of weekly earnings. For whatever period the employer is not offering the same wages and hours as contemplated in the contract of hire, it may be liable for benefit charges to its account.

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

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 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 that she was leaving and quit work. There was no evidence presented at the hearing of good cause attributable to the employer. The claimant voluntarily quit without good cause attributable to the employer. Benefits are denied.

DECISION:

The representative's June 21, 2007 decision (reference 02) is modified in favor of the appellant. The claimant is partially unemployed and benefits are allowed through June 23, 2007, provided she is otherwise eligible. After June 23, 2007, the claimant voluntarily left work without good cause attributable to the employer. Benefits are denied.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/kjw