

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

STEPHANIE E DAVIS

Claimant

APPEAL NO. 10A-UI-13701-LT

**ADMINISTRATIVE LAW JUDGE
DECISION**

SELECT COMMUNICATIONS INC

Employer

OC: 08/29/10

Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the September 22, 2010 (reference 02) decision that denied benefits based upon the June 3, 2010 separation. After due notice was issued, a telephone conference hearing was held on November 17, 2010. Claimant participated. Employer participated through Regional Manager Pat Macke and Representative Glenda Niemiec.

ISSUE:

The issue is whether claimant voluntarily left the employment with good cause attributable to the employer.

FINDINGS OF FACT:

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: Claimant most recently worked part-time (25 hours) as a sales representative. Her last day of work was on June 30, 2010, when she began maternity leave. On August 2, 2010, she called Macke about her newborn son's medical situation; that he had open heart surgery on July 25, he was in critical condition, and she would not be able to return to work in the short term. She did not have an idea of a return to work date. The hospital originally anticipated he would be in the hospital for 10 to 16 weeks. He was released August 12, 2010. She contacted the employer within a week thereafter but said he was unable to go to daycare so she would only be able to work limited hours when her boyfriend or home healthcare nurses could care for him. The employer offered flexible hours, but claimant had to take him back to Rochester for critical care. Claimant filed her claim for unemployment insurance benefits effective August 29, 2010. After Labor Day, she contacted Macke again about work but there was another emergency medical visit. The doctor released her to return to work on September 20, 2010. The employer filled her position on September 30, 2010. Overall, claimant told the employer twice that she would not be able to return to work even though employer offered to work with her schedule so she could return later when her son was better.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left the employment 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.

871 IAC 24.25(23) 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 § 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 § 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:

(23) The claimant left voluntarily due to family responsibilities or serious family needs.

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2).

While claimant's decision to quit may have been based upon good personal reasons, it was not a good-cause reason attributable to the employer for leaving the employment, since employer offered and claimant declined flexible hours while her son had medical needs. Benefits must be denied.

DECISION:

The September 22, 2010 (reference 02) decision is affirmed. The claimant voluntarily left her 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.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/kjw