

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SHAVONTE R COOPER

Claimant

APPEAL NO. 17A-UI-00615-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

DEVELOPMENTAL SERVICES OF IOWA

Employer

OC: 07/17/16

Claimant: Respondent (2)

871 IAC 23.43(9)a – Cross Wage Claim Relief of Charges
Section 96.5-1 - Voluntary Quit
Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Developmental Services of Iowa (employer) appealed a representative's January 11, 2017 decision (reference 01) that concluded it could not be relieved of charges based on the employment of Shavonte Cooper (claimant). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for February 8, 2017. The claimant did provide a telephone number for the hearing. The administrative law judge contacted the claimant. She did not wish to participate in the hearing. The employer participated by Gina Klein, Human Resources Manager.

ISSUE:

The issue is whether the employer can be relieved of charges.

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 November 5, 2014, as a full-time direct support professional. In July 2015, the claimant became a lead direct support professional. On September 21, 2015, the claimant requested to go to an "as needed" status. Her job title changed back to direct support professional. The claimant filed for unemployment insurance benefits with an effective date of July 17, 2016. On December 30, 2016, she resumed her full-time status and became a front-line supervisor. On January 23, 2017, the claimant submitted a letter of resignation with an effective date of February 3, 2017. The claimant worked through February 3, 2017. She quit to move to Texas.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant was not able and available for work on July 17, 2016.

Iowa Admin. Code r. 871-23.43(9)(a) provides, in part:

(9) Combined wage claim transfer of wages.

a. Iowa employers whose wage credits are transferred from Iowa to an out-of-state paying state under the interstate reciprocal benefit plan as provided in Iowa Code section 96.20 will be liable for charges for benefits paid by the out-of-state paying state. No reimbursement so payable shall be charged against a contributory employer's account for the purpose of Iowa Code section 96.7, unless wages so transferred are sufficient to establish a valid Iowa claim, and such charges shall not exceed the amount that would have been charged on the basis of a valid Iowa claim. However, an employer who is required by law or by election to reimburse the trust fund will be liable for charges against the employer's account for benefits paid by another state as required in Iowa Code section 96.8(5), regardless of whether the Iowa wages so transferred are sufficient or insufficient to establish a valid Iowa claim. Benefit payments shall be made in accordance with the claimant's eligibility under the paying state's law. Charges shall be assessed to the employer which are based on benefit payments made by the paying state.

also

871 IAC 24.23(17) provides:

(17) Work is unduly limited because the claimant is not willing to work the number of hours required to work in the claimant's occupation.

When an employee unreasonably limits the hours she is willing to work, she is considered to be unavailable for work. The claimant refused the full-time hours she normally worked. She was not able and available for work as of July 17, 2016.

Iowa Admin. Code r. 871-24.23(23) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(23) The claimant's availability for other work is unduly limited because such claimant is working to such a degree that removes the claimant from the labor market.

The claimant was working full-time for the employer as of December 30, 2016. She was not able and available for other work as of December 30, 2016.

The administrative law judge concludes the claimant voluntarily quit work on February 3, 2017, 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(2) 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:

(2) The claimant moved to a different locality.

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 because she is moving to a different location, her leaving is without good cause attributable to the employer. The claimant left work because she was moving to a different locality. Her leaving was without good cause attributable to the employer. The claimant voluntarily quit without good cause attributable to the employer.

DECISION:

The representative's January 11, 2017, decision (reference 01) is reversed. The claimant was not able and available from July 17, 2016, to February 3, 2017. The claimant was voluntarily quit work without good cause attributable to the employer on February 3, 2017. Under Iowa law the claimant would not be eligible to receive unemployment insurance benefits from July 17, 2016.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/rvs