

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**TINA D LOVELESS**

Claimant

**APPEAL NO: 10A-UI-15269-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**WELLS FARGO BANK NA**

Employer

**OC: 10/03/10**

**Claimant: Respondent (2/R)**

Section 96.5-1 – Voluntary Quit

**PROCEDURAL STATEMENT OF THE CASE:**

The employer appealed a representative's October 26, 2010 determination (reference 01) that held the claimant qualified to receive benefits and the employer's account subject to charge because the claimant offered to return to work after she returned from caring for a family member and the employer did not have any work for her. The claimant participated in the hearing. Steve Zaks represented the employer. Mary Lynn Wilson, the loan administrator manager, and Sarah Daley appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge finds the claimant is not qualified to receive benefits.

**ISSUE:**

Did the claimant voluntarily quit her employment for reasons that qualify her to receive benefits?

**FINDINGS OF FACT:**

The claimant started working for the employer in November 2003. She worked full time.

Before May 2010, the claimant had surgery and exhausted her leave under the Family Medical Leave Act. In late April or early May 2010, the claimant asked the employer if she could have another three or five months off so she could take care of her sister in Idaho. The claimant's mother had been helping this sister, but this got to be too much for the claimant's mother. The claimant's sister told the claimant that she would have surgery by mid or late June, but needed someone to help her with daily care before and after her surgery. The claimant's sister would not allow a stranger to help her and the claimant did not think her sister's 14-year-old daughter should have to take on the responsibility of taking care of her mother. After the employer denied the claimant's request for time off, the claimant submitted her resignation in early May. The claimant's last day of work was May 14, 2010.

The claimant resigned before her sister had a definite surgery date. The claimant's sister did not have the surgery because the surgery she wanted was not covered. The claimant returned to her residence on July 1. The claimant wanted to be home with her family and her sister's surgery had been delayed.

The claimant contacted the employer the week of July 5 and learned her job had been filed in mid-June. The employer has no problem with the claimant reapplying to work for the employer.

The claimant established a claim for benefits during the week of October 3, 2010. She has filed for and received benefits since October 3, 2010.

#### **REASONING AND CONCLUSIONS OF LAW:**

A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quits employment without good cause attributable to the employer. Iowa Code § 96.5-1. The claimant voluntarily quit when she submitted her resignation and worked until the effective date of her resignation, May 12, 2010.

The law presumes a claimant voluntarily leaves employment for nondisqualifying reasons when she leaves for the sole purpose of taking care of a member of her immediate family who is ill or injured, and after that family member sufficiently recovers the claimant immediately returns and offers to return to work, but no work is available. 871 IAC 24.26(8). Immediate family member is defined as a collective body of persons who live under one roof and under one head or management – son, daughter, father, mother, or in-laws. 871 IAC 24.26(8).

The claimant voluntarily resigned when the employer did not grant her another leave of absence for at least three months so she could care for her sister who lives in Idaho before and after her sister's surgery. The claimant quit before her sister's surgery was scheduled. Ultimately, the surgery was delayed because the surgery was not covered under her sister's insurance. Even though the claimant contacted the employer in early July after she returned to her residence, the employer had already filled the claimant's previous job. The regulation, 871 IAC 24.26(8), does not apply in this situation because the claimant's sister is not covered under the definition of immediate family member.

Ultimately, the claimant quit when the employer would not grant her another leave of absence. The claimant established compelling personal reasons for quitting, but these reasons do not qualify her to receive benefits. As of October 3, 2010, the claimant is not qualified to receive benefits.

Since the claimant has received benefits since October 3, 2010, the issue of overpayment or whether she is eligible for a waiver of any overpayment will be remanded to the Claims Section to determine.

#### **DECISION:**

The representative's October 26, 2010 determination (reference 01) is reversed. The claimant voluntarily quit her employment for compelling personal reasons that do not qualify her to receive benefits. The claimant is disqualified from receiving unemployment insurance benefits as of October 3, 2010. This disqualification continues until she has been paid ten times her

weekly benefit amount for insured work, provided she is otherwise eligible. The employer's account will not be charged. The issue of overpayment or whether the claimant is eligible for a waiver of overpayment is **Remanded** to the Claims Section to determine.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/css