

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

SARAH A JASPER
Claimant

MARTIN LUTHER HOME CORPORATION
Employer

APPEAL 15A-UI-08497-SC-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 12/07/14
Claimant: Appellant (1-R)

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Code § 96.5(1)a – Voluntary Quitting – Other Employment

STATEMENT OF THE CASE:

The claimant filed an appeal from the July 20, 2015, (reference 07) unemployment insurance decision that denied benefits based upon the determination that she failed to provide sufficient evidence to show she voluntarily quit her employment for good cause attributable to the employer. The parties were properly notified about the hearing. A telephone hearing was held on August 20, 2015. Claimant Sarah Jasper participated on her own behalf. Employer Martin Luther Home Corporation participated through Human Resources Coordinator Janet Patters. Official notice was taken of the administrative record.

ISSUE:

Did the claimant voluntarily quit the employment in good faith for the sole purpose of accepting new employment or with good cause attributable to employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full-time as a Certified Nursing Assistant and Certified Medication Aide beginning March 10, 2015. She separated from her employment on March 19, 2015 to accept another job. She then resumed employment with the employer on April 6, 2015 and was separated from employment for a second time on May 3, 2015, when she quit. The claimant did not give the employer a reason she was leaving her employment. The claimant began a new job on June 6, 2015.

According to the timeline of employment provided, the claimant would have earned wages from the employer during the benefit weeks ending March 14, 2015, March 21, 2015 and April 11, 2015 through May 16, 2015. A review of the claimant's benefits history shows she did not report any wages earned during those weeks and collected her full weekly unemployment benefit amount of \$349.00. Further review, shows three other employers, in addition to the

employer in this appeal, reported wages paid to the claimant in the first and second quarters of 2015. However, the claimant did not report any wages earned in any benefit week from her original claim date of December 7, 2014 through the depletion of her benefits in week ending June 13, 2015.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant did not voluntarily quit the employment in good faith for the sole purpose of accepting new employment or with good cause attributable to employer. Benefits are denied.

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 Code § 96.5-1-a 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. But the individual shall not be disqualified if the department finds that:

a. The individual left employment in good faith for the sole purpose of accepting other or better employment, which the individual did accept, and the individual performed services in the new employment. Benefits relating to wage credits earned with the employer that the individual has left shall be charged to the unemployment compensation fund. This paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

Iowa Admin. Code r. 871-24.28(5) provides:

Voluntary quit requalifications and previously adjudicated voluntary quit issues.

(5) The claimant shall be eligible for benefits even though the claimant voluntarily quit if the claimant left for the sole purpose of accepting an offer of other or better employment, which the claimant did accept, and from which the claimant is separated, before or after having started the new employment. The employment does not have to be covered employment and does not include self-employment.

Iowa Admin. Code r. 871-23.43(5) provides:

(5) Sole purpose. The claimant shall be eligible for benefits even though the claimant voluntarily quit if the claimant left for the sole purpose of accepting an offer of other or better employment, which the claimant did accept, and from which the claimant is separated, before or after having started the new employment. No charge shall accrue to the account of the former voluntarily quit employer.

It is the duty of the administrative law judge as the trier of fact in this case, to determine the credibility of witnesses, weigh the evidence and decide the facts in issue. *Arndt v. City of LeClaire*, 728 N.W.2d 389, 394-395 (Iowa 2007). The administrative law judge may believe all, part or none of any witness's testimony. *State v. Holtz*, 548 N.W.2d 162, 163 (Iowa App. 1996). In assessing the credibility of witnesses, the administrative law judge should consider the evidence using his or her own observations, common sense and experience. *Id.* In determining the facts, and deciding what testimony to believe, the fact finder may consider the following factors: whether the testimony is reasonable and consistent with other believable evidence; whether a witness has made inconsistent statements; the witness's appearance, conduct, age, intelligence, memory and knowledge of the facts; and the witness's interest in the trial, their motive, candor, bias and prejudice. *Id.*

After assessing the credibility of the witnesses who testified during the hearing, considering the applicable factors listed above, and using her own common sense and experience, the administrative law judge does not find the claimant's testimony that she voluntarily left employment in good faith for the sole purpose of accepting other employment credible. The claimant left her employment on May 13, 2015 and did not offer a customary two-week resignation notice. She did not notify the employer of the reason she was leaving, even though the time before she did indicate it was for a new job. Initially, the claimant could not remember what date her employment with the employer ended and she indicated there was no gap in employment before she started her new employment on June 6, 2015. When questioned if that was accurate, she then explained there was a delay due to paperwork and orientation. When pressed for details as to what that entailed, she explained that the person who was supposed to train her or provide orientation was on vacation, but she did not know that when she left her position. It is difficult to believe a new employer would make a job offer with a start date for orientation that fell during a previously scheduled vacation of the employee responsible for orientation. After the employer testified and provided the end date of the claimant's employment, the claimant then explained the gap in employment by stating there was another employer with whom she was supposed to start work, but never did as the job offer fell through. She was unclear as to what date she was supposed to start work for this additional employer or on what date that job offer fell through. Finally, the claimant appears to have a history of providing false information to Iowa Workforce Development as evidenced by the fact she filed claims each week and did not report the wages she earned.

As the claimant's testimony was found not credible, she has not shown she left employment in good faith to accept new employment. She also has not provided any other reason for voluntarily quitting her employment. The claimant has not provided sufficient evidence to show she voluntarily left her employment for good cause attributable to the employer. Therefore, benefits are denied.

DECISION:

The July 20, 2015, (reference 07) unemployment insurance decision is affirmed. The claimant did not voluntarily quit the employment in good faith for the sole purpose of accepting new employment or with good cause attributable to 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.

REMAND:

The claimant's receipt of benefits, in light of the wages reported by employers, is remanded to the fraud division for investigation.

Stephanie R. Callahan
Administrative Law Judge

Decision Dated and Mailed

src/pjs