

IOWA WORKFORCE DEVELOPMENT  
Unemployment Insurance Appeals Section  
1000 East Grand—Des Moines, Iowa 50319  
DECISION OF THE ADMINISTRATIVE LAW JUDGE  
68-0157 (7-97) – 3091078 - EI

LEILANI E PECHER  
2776 STONEBERGER PLACE  
FALLON NV 89406

DES MOINES INDEPENDENT COMMUNITY  
SCHOOL DISTRICT  
ATTN BUSINESS/FINANCE  
1801 16<sup>TH</sup> ST  
DES MOINES IA 50314-1902

Appeal Number: 05A-UI-12100-RT  
OC: 11-06-05 R: 12  
Claimant: Appellant (1)

**This Decision Shall Become Final**, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4<sup>th</sup> Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.5-1 – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant, Leilani E. Pecher, filed a timely appeal from an unemployment insurance decision dated November 21, 2005, reference 01, denying unemployment insurance benefits to her. After due notice was issued, a telephone hearing was held on December 15, 2005, with the claimant participating. The employer, Des Moines Independent Community School District, did not participate in the hearing because the employer did not call in, either before the hearing or during the hearing, any telephone numbers where any witnesses could be reached for the hearing, as instructed in the Notice of Appeal. The administrative law judge takes official notice of Iowa Workforce Development Department of unemployment insurance records for the claimant.

## FINDINGS OF FACT:

Having heard the testimony of the witness and having examined all of the evidence in the record, the administrative law judge finds: The claimant was employed by the employer as a part-time clerk from January 6, 2000 until she voluntarily quit effective May 20, 2005 which was her last day of work. The claimant averaged between 27 and a half and 28 hours per week. The claimant quit when she told her manager on May 20, 2005 that she was quitting. The claimant quit because of the health of her husband. Her husband's health was bad and her husband's doctor had told her husband that he needed to move to a warmer climate. Accordingly, the claimant and her husband moved to Nevada. The claimant has never returned to the employer and offer to go back to work. The claimant's quitting had nothing to do with her working conditions at the employer. The claimant has no other earnings in her base period other than from the employer herein.

## REASONING AND CONCLUSIONS OF LAW:

The question presented by this appeal is whether the claimant's separation from employment was a disqualifying event. It was.

Iowa Code Section 96.5-1-c 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:

c. The individual left employment for the necessary and sole purpose of taking care of a member of the individual's immediate family who was then injured or ill, and if after said member of the family sufficiently recovered, the individual immediately returned to and offered the individual's services to the individual's employer, provided, however, that during such period the individual did not accept any other employment.

871 IAC 24.25, (2), (10) provide:

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.

(10) The claimant left employment to accompany the spouse to a new locality.

The claimant credibly testified, and the administrative law judge concludes, that she left her employment voluntarily on May 20, 2005. The issue then becomes whether the claimant left

her employment without good cause attributable to the employer. The administrative law judge concludes that the claimant has the burden to prove that she has left her employment with the employer herein with good cause attributable to the employer. See Iowa Code section 96.6-2. The administrative law judge concludes that the claimant has failed to meet her burden of proof to demonstrate by a preponderance of the evidence that she left her employment with the employer herein with good cause attributable to the employer. The only reason given by the claimant for her quit was her husband's health, which required her husband to move to a warmer climate. The claimant therefore moved to Nevada with her husband. The claimant has never returned to the employer and offer to go back to work. The claimant's quitting had nothing to do with her working conditions at the employer. The administrative law judge is not without sympathy for the claimant but must conclude here that the claimant left her employment voluntarily without good cause attributable to the employer. Even though the claimant may have left her employment for the necessary and sole purpose of taking care of her husband, there is no evidence that her husband has sufficiently recovered or that the claimant has immediately returned to the employer and offer to return to work and no work was available to her. Therefore, the claimant's moving is without good cause attributable to the employer. Further, leaving work voluntarily to move to a different locality or to accompany the spouse to a new locality is also not good cause attributable to the employer. Finally, although the claimant's voluntary quit here was from part-time employment, the claimant had no other earnings from any other employer in her base period and therefore she would not be otherwise monetarily eligible to receive unemployment insurance benefits based on any such wages paid by other base period employers. Accordingly, the administrative law judge is constrained to conclude that the claimant left her employment voluntarily without good cause attributable to the employer and, as a consequence, she is disqualified to receive unemployment insurance benefits. Unemployment insurance benefits are denied to the claimant until or unless she requalifies for such benefits.

#### DECISION:

The representative's decision of November 21, 2005, reference 01, is affirmed. The claimant, Leilani E. Pecher, is not entitled to receive unemployment insurance benefits, until or unless she requalifies for such benefits, because she left her employment voluntarily without good cause attributable to the employer.

kkf/kjf