

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MELISSA K LANE
Claimant

APPEAL NO. 09A-UI-11488-VST

**ADMINISTRATIVE LAW JUDGE
DECISION**

COMMUNITY CARE INC
Employer

**Original Claim: 06/21/09
Claimant: Appellant (5)**

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

The claimant filed an appeal from a representative's decision dated July 31, 2009, reference 02, which held the claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on August 26, 2009. The claimant participated. The employer participated by Carol Wells, human resources director, and Ginger Pingel, human resources assistant director. The record consists of the testimony of Melissa Lane; the testimony of Carol Wells, the testimony of Ginger Pingel, and Employer's Exhibits 1 through 3.

ISSUE:

Whether the claimant voluntarily left for good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witnesses and having considered all of the evidence in the record, makes the following findings of fact:

The claimant was hired on August 18, 2008, as a part-time direct care worker. The employer provides assistance to disabled individuals in the community.

On February 13, 2009, the claimant was notified that her mother was in the emergency with cardiac problems. The claimant called the employer to say that she would be unable to come to work. She was then absent on February 14, 2009; February 17, 2009; February 18, 2009; February 20, 2009; February 24, 2009; February 25, 2009; and February 26, 2009. On February 24, 2009, the claimant filed a request for a personal leave of absence in order to help her mother. The claimant did not qualify for leave under the Family Medical Leave Act (FMLA). The employer did have a policy that enabled an individual to apply for this personal leave for up to 30 days. Approval of that leave rested with the discretion of the employer.

On February 27, 2009, the claimant was sent a letter, certified mail, that the employer was denying the request for a personal leave of absence. The claimant signed for the certified letter on March 5, 2009. In the letter, the claimant was told that the employer could not hold her position open and she was terminated effective February 15, 2009, the last day she worked.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 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(20) and (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 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:

(20) The claimant left for compelling personal reasons; however, the period of absence exceeded ten working days.

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

The evidence in this case established that the claimant left work voluntarily in order to care for her mother. Although the employer terminated the claimant's employment, the circumstances of this case show that it was the claimant who initiated the separation of employment by electing not to come to work. Iowa law does permit an individual who leaves employment for compelling personal reasons to collect unemployment benefits, provided the period of absence does not exceed ten working days. The claimant was absent for a longer period of time. She did not contact the employer concerning the status of her leave of absence.

Iowa law also states that if an individual leaves work voluntarily to attend to serious family matters, it is considered to be a voluntary quit without good cause attributable to the employer. Although the claimant's desire and need to care for her mother were compelling personal reasons not to come to work, good cause is not attributable to the employer under these circumstances. Benefits are denied.

DECISION:

The representative's decision dated July 31, 2009, reference 02, is modified with no effect. Unemployment insurance benefits shall be withheld until the claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Vicki L. Seeck
Administrative Law Judge

Decision Dated and Mailed

vls/kjw