



## REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5(1) (2013) provides:

An individual shall be disqualified for benefits: *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 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...

(3) The claimant left to seek other employment but did not secure employment.

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code §96.6(2) (amended 1998).

The findings of fact show how we have resolved the disputed factual issues in this case. We have carefully weighed the credibility of the witnesses and the reliability of the evidence. We attribute more weight to the Employer's version of events. The Employer provided credible testimony Ms. Thompson indicated she disliked the job, and intended to move back to Wisconsin. Additionally, she took measures to sever her relationship when she interviewed for other employment. "[Q]uitting requires an intention to terminate employment accompanied by an overt act carrying out the intent." FDL Foods, Inc. v. Employment Appeal Board, 460 N.W.2d 885, 887 (Iowa App. 1990), accord Peck v. Employment Appeal Board, 492 N.W.2d 438 (Iowa App. 1992).

Just because the Claimant was unsuccessful in securing other employment from that last interview, and subsequently sought to return to Fielding Funeral Home, does not detract from the nature of her separation. For all intents and purposes, Ms. Thompson had already tendered her resignation when she expressed that she was moving back to Wisconsin and told the Employer she was going to another interview. The court in Langley v. Employment Appeal Board, 490 N.W.2d 300 (Iowa App. 1992) held that the employer is under no obligation to accept an employee's withdrawal of their resignation. The idea being that the employer should be able to adjust their workforce as needed, and could not be bound to wait for indecisive employees to determine whether or not they were really going to quit.

Based on this record, the Claimant initiated her own separation from employment, and has failed to satisfy her burden of proof. See, 871 IAC 24.1(113) "b."

**DECISION:**

The administrative law judge's decision dated October 7, 2014 is **REVERSED**. The Employment Appeal Board concludes that the claimant voluntarily quit her employment without good cause attributable to the Employer. Accordingly, she is denied benefits until such time she has worked in and was paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. See, Iowa Code section 96.5(1)"g".

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AMG/fnv