

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MELISSA A RIGLEY
Claimant

APPEAL NO: 14A-UI-10310-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ACCELERATED REHABILITATION CENTER
Employer

OC: 06/29/14
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

Melissa A. Rigley (claimant) appealed a representative's September 23, 2014 decision (reference 03) that concluded she was not qualified to receive unemployment insurance benefits after a separation from employment with Accelerated Rehabilitation Center (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on October 22, 2014. The claimant participated in the hearing. A review of the Appeals Section's conference call system indicates that the employer failed to respond to the hearing notice and provide a telephone number at which a witness or representative could be reached for the hearing and did not participate in the hearing. Based on the evidence, the arguments of the claimant, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the claimant voluntarily quit for a good cause attributable to the employer?

OUTCOME:

Affirmed. Benefits denied.

FINDINGS OF FACT:

The claimant started working for the employer on July 28, 2014. She worked full time as a receptionist in the employer's physical therapy office. Her last day of work was September 2, 2014. She voluntarily quit as of that date. Her reason for quitting was because she had concluded that she was unqualified for the job and that she could not perform the necessary functions of the job because she did not know how to use a computer or type. The employer had not indicated that the claimant's job was in any jeopardy and had offered to obtain additional training for her. Her job had continued to be available for her had she not decided to quit the employment.

The claimant had previously established an unemployment insurance benefit year effective June 29, 2014. After quitting this employment, she reactivated that benefit year by filing an additional claim effective August 31, 2014.

REASONING AND CONCLUSIONS OF LAW:

If the claimant voluntarily quit her employment, she is not eligible for unemployment insurance benefits unless it was for good cause attributable to the employer. Iowa Code § 96.5-1. Rule 871 IAC 24.25 provides that, 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. A voluntary leaving of employment requires an intention to terminate the employment relationship and an action to carry out that intent. *Bartelt v. Employment Appeal Board*, 494 N.W.2d 684 (Iowa 1993); *Wills v. Employment Appeal Board*, 447 N.W.2d 137, 138 (Iowa 1989). The claimant did express or exhibit the intent to cease working for the employer and did act to carry it out. The claimant would be disqualified for unemployment insurance benefits unless she voluntarily quit for good cause.

The claimant has the burden of proving that the voluntary quit was for a good cause that would not disqualify her. Iowa Code § 96.6-2. Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. Rule 871 IAC 24.26(3), (4). Leaving because of a dissatisfaction with the work environment is not good cause. Rule 871 IAC 24.25(21). Quitting because of a belief that the employee's job performance is not to the employer's satisfaction but where the employer has not sought to end the employment is not good cause. Rule 871 IAC 24.25(33). The claimant has not provided sufficient evidence to conclude that a reasonable person would find the employer's work environment detrimental or intolerable. *O'Brien v. Employment Appeal Board*, 494 N.W.2d 660 (Iowa 1993); *Uniweld Products v. Industrial Relations Commission*, 277 So.2d 827 (FL App. 1973).

A person who quits employment without good cause attributable to the employer must be disqualified from further benefits even if that person has given up unemployment insurance benefits to accept the work which was then considered unsuitable. *Taylor v. Iowa Department of Job Service*, 362 N.W.2d 534 (Iowa 1985). The claimant has not satisfied her burden. Benefits are denied.

DECISION:

The representative's September 23, 2014 decision (reference 03) is affirmed. The claimant voluntarily left her employment without good cause attributable to the employer. As of September 2, 2014, benefits are withheld until such time as 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.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/css