

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LISA R OUSLEY
Claimant

APPEAL NO: 12A-UI-04673-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ADVANTAGE SALES & MARKETING LLC
Employer

OC: 03/11/12

Claimant: Appellant (4)

Section 96.5-1 – Voluntary Leaving/Requalification

STATEMENT OF THE CASE:

Lisa R. Ousley (claimant) appealed a representative's April 12, 2012 decision (reference 03) that concluded she was not qualified to receive unemployment insurance benefits after a separation from employment from Advantage Sales & Marketing, L.L.C. (employer). Hearing notices were mailed to the parties' last-known addresses of record for a telephone hearing to be held on May 15, 2012. At the time for the hearing but in lieu of the hearing being held, the administrative law judge suggested and the parties concurred that no hearing was necessary and a decision could be made on the record. Based on a review of the available information 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 and, if so, is she disqualified from receiving unemployment insurance benefits?

OUTCOME:

Modified. Benefits allowed. Employer's account relieved of charge.

FINDINGS OF FACT:

The claimant started working for the employer on November 12, 2008. She worked part-time as a sales representative. Her last day of work was November 22, 2011. She voluntarily quit on that date because she was in an abusive domestic relationship and needed to move to another town.

After the separation, the claimant worked for another employer from December 15, 2011 through March 15, 2012; in that employment she earned and was paid covered wages in excess of \$9,000.00. After that employment ended on March 15, the claimant established an unemployment insurance benefit year effective March 11, 2012. Her weekly benefit amount was calculated to be \$142.00.

REASONING AND CONCLUSIONS OF LAW:

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. The claimant did express her intent not to return to work with the employer. A voluntary leaving of employment requires an intention to terminate the employment relationship. *Bartelt v. Employment Appeal Board*, 494 N.W.2d 684 (Iowa 1993). The claimant did exhibit the intent to quit and did act to carry it out. The claimant would normally be disqualified for unemployment insurance benefits unless she voluntarily quit for good cause.

Iowa Code section 96.5-1-g 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:

g. The individual left work voluntarily without good cause attributable to the employer under circumstances which did or would disqualify the individual for benefits, except as provided in paragraph "a" of this subsection but, subsequent to the leaving, the individual worked in and was paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

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. While leaving because of a need to move due to a domestic situation is a good personal reason for quitting, it is not attributable to the employer. 871 IAC 24.25(2), (20). Quitting because of a belief that the employer would discharge the employee had the employee not quit is not good cause for quitting where the employer had not made a decision to in fact discharge the employee. 871 IAC 24.25(33). The claimant has not satisfied her burden.

However, the administrative law judge further concludes from the available information that the claimant has requalified for benefits since the separation from this employer and before she established a claim for unemployment insurance benefits. Accordingly, benefits are allowed and the account of the employer shall not be charged.

DECISION:

The representative's April 12, 2012 decision (reference 03) is modified in favor of the appellant. The claimant voluntarily left her employment without good cause attributable to the employer, but has requalified for benefits since the separation. Benefits are allowed, provided the claimant is otherwise eligible. The account of the employer shall not be charged.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/kjw