

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JAMIE K EVERETT
Claimant

APPEAL NO: 08A-UI-00062-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TRACO A THREE RIVERS
Employer

OC: 12/09/07 R: 01
Claimant: Appellant (4/R)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

Jamie K. Everett (claimant) appealed a representative's December 28, 2007 decision (reference 01) that concluded she was not qualified to receive unemployment insurance benefits after a separation from employment from Traco A Three Rivers (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on January 17, 2008. The claimant participated in the hearing. Carol Dixon appeared on the employer's behalf. Based on the evidence, the arguments of the parties, 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?

FINDINGS OF FACT:

The claimant started working for the employer on February 26, 2007. She worked full time as a customer service representative in the employer's window manufacturing business. Her last day of work was December 12, 2007. She provided her written two-week notice of quitting that day. Her last day of work would have been December 24. The employer waived her notice and paid her through December 24. The claimant's reason for quitting was that she did not have a reliable source of transportation to work and did not wish to be discharged for attendance.

The claimant's car had been stolen in approximately September. Since that time, she had been dependent on getting rides from a neighbor who would drive the claimant to the home of a coworker. However, with increasing poor weather, there were times the claimant could not get a ride or was late. As a result, she had been given some attendance warnings. On November 28 she had been given a final warning for an absence due to transportation on November 27. As the claimant anticipated she would shortly incur another incident due to transportation problems given the weather, she tendered her resignation.

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 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 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. Bartelt v. Employment Appeal Board, 494 N.W.2d 684 (Iowa 1993). 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. While the claimant lost her transportation through no fault of her own, quitting a job due to a loss of transportation or due to the potential for discharge is not good cause attributable to the employer, and is a disqualifying reason as to the claimant. 871 IAC 24.25(1), (30), (33). The claimant has not satisfied her burden. Benefits are denied as of December 24, 2007, the effective date of her quit.

An issue as to whether the claimant was eligible for benefits for the two weeks prior to the effective date of her quit arose as a result the hearing. The administrative law judge notes that the claimant did not report full wages paid to her by the employer for the claim weeks ending December 15 and December 22, 2007. This issue was not included in the notice of hearing for this case, and the case will be remanded for an investigation and preliminary determination on that issue. 871 IAC 26.14(5).

DECISION:

The representative's December 28, 2007 decision (reference 01) is affirmed as modified in favor of the claimant. The claimant voluntarily left her employment without good cause attributable to the employer. As of December 24, 2007, 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. The matter is remanded to the Claims Section for investigation and determination of the eligibility issue for the two claim weeks prior to December 24.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/pjs