

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**KIMBERLY R JACKSON**  
Claimant

**APPEAL NO. 15A-UI-01334-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**HCM INC**  
Employer

**OC: 01/04/15**  
**Claimant: Appellant (1)**

Section 96.5(1) – Voluntary Quit

**STATEMENT OF THE CASE:**

Kimberly Jackson filed a timely appeal from the January 20, 2015, reference 01, decision that disqualified her for benefits and that relieved the employer of liability for benefits; based on an Agency conclusion that she had voluntarily quit on December 30, 2014 without good cause attributable to the employer. After due notice was issued, a hearing was held on February 25, 2015. Ms. Jackson participated. Troy Anderson, Administrator, represented the employer.

**ISSUE:**

Whether Ms. Jackson's voluntary quit was for good cause attributable to the employer.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The employer operates a nursing home in Sioux City. Kimberly Jackson was employed as a part-time dietary aide/cook from August 2013 until December 30, 2014 when she voluntarily quit relocating to Saint Louis, Missouri. At the time Ms. Jackson quit, the employer continued to have work for Ms. Jackson. Ms. Jackson provided the employer with a resignation letter and two weeks' notice of her quit. At the time Ms. Jackson quit, she was engaged to be married. Ms. Jackson's fiancé was in Saint Louis. Ms. Jackson relocated to Saint Louis to be with her fiancé. Ms. Jackson's relocation to Saint Louis would also allow her to assist her adult sister, who suffers from lupus, has undergone two hip surgeries, and is unable to walk properly. Ms. Jackson's sister is able to take care of herself in many respects but needs help with preparing food and with transportation. Since separating the employment and relocating to Saint Louis, Ms. Jackson has never relocated back to the Sioux City area or returned to the employer to offer her services.

This employer was Ms. Jackson's sole base-period employer.

## REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 96.5-1-c 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:

c. The individual left employment for the necessary and sole purpose of taking care of a member of the individual's immediate family who was then injured or ill, and if after said member of the family sufficiently recovered, the individual immediately returned to and offered the individual's services to the individual's employer; provided, however, that during such period the individual did not accept any other employment.

Iowa Admin. Code r. 871-24.25(2) 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 § 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 § 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:

(2) The claimant moved to a different locality.

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 698, 612 (Iowa 1980) and Peck v. EAB, 492 N.W.2d 438 (Iowa App. 1992). 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. See 871 IAC 24.25.

The evidence in the record indicates that Ms. Jackson left her employment to relocate to another community. Such quits are deemed to be without good cause attributable to the employer. The weight of the evidence fails to establish that it was medically necessary for Ms. Jackson to relocate to Saint Louis to care for her sister. Ms. Jackson indicated in her testimony that her sister is able to take care of most her self-care and needs assistance only with such things as meal preparation and transportation. The weight of the evidence establishes that Ms. Jackson's primary purpose in moving was to be close to her fiancé. Even if it had been medically necessary for Ms. Jackson to relocate to Saint Louis to care for her sister, Ms. Jackson would not be eligible for unemployment insurance benefits while she did that. If the sole purpose of the relocation had been to care for the sister, Ms. Jackson would only have been eligible for benefits if her sister reached a point where Ms. Jackson's assistance was no longer needed, and then if Ms. Jackson relocated back to the Sioux City area, returned to the employer to offer her services, and was denied reemployment. None of that has happened.

Ms. Jackson voluntarily quit the employment without good cause attributable to the employer. Accordingly, she is disqualified for benefits until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. The employer's account shall not be charged for benefits.

An individual who voluntarily quits part-time employment without good cause attributable to the employer and who has not requalified for benefits by earning ten times her weekly benefit amount in wages for insured employment, but who nonetheless has sufficient other wage credits to be eligible for benefits may receive reduced benefits based on the other base-period wages. See 871 IAC 24.27.

Because this employer was Ms. Jackson's sole base period employer, there are no other base-period wages upon which reduced benefits might be based. Accordingly, Ms. Jackson is not eligible for reduced benefits and is instead subject to the disqualification indicated above.

**DECISION:**

The January 20, 2015, reference 01, decision is affirmed. The claimant voluntarily quit the employment without good cause attributable to the employer. The claimant is disqualified for benefits until she has worked in a been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. The employer's account shall not be charged.

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James E. Timberland  
Administrative Law Judge

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Decision Dated and Mailed

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