

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DEBRA PLAZA
Claimant

APPEAL NO. 14A-UI-08546-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

TMONE LLC
Employer

OC: 07/27/14
Claimant: Respondent (2)

Section 96.5-1 – Voluntary Quit
Section 96.3-7 – Overpayment

STATEMENT OF THE CASE:

Debra Plaza (claimant) appealed a representative's August 13, 2014 (reference 01) decision that concluded she was not eligible to receive unemployment insurance benefits because she voluntarily quit work with TMone (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for September 8, 2014. The claimant participated personally. The employer participated by Lindsey Sinn, Employee Connections Manager.

ISSUE:

The issue is whether the claimant was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on March 11, 2013 as a full-time telephone account manager. She lived two blocks from her work. The claimant signed for receipt of the employer's handbook. The employer moved to a new location effective July 28, 2014. The claimant worked one day but found it difficult to get to work on public transportation. The claimant did not work after July 28, 2014. The claimant quit work due to lack of transportation. Continued work was available had the claimant not resigned.

The claimant filed for unemployment insurance benefits with an effective date of July 27, 2014. She did not receive any benefits after the separation from employment. The employer did not participate in the fact-finding interview on August 12, 2014.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant voluntarily quit work without 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.

Iowa Admin. Code r. 871-24.25(1) 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. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 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:

(1) The claimant's lack of transportation to the work site unless the employer had agreed to furnish transportation.

A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980). The claimant's intention to voluntarily leave work was evidenced by her words and actions. She told the employer she was leaving and quit work. When an employee quits work because of lack of transportation, her leaving is without good cause attributable to the employer. The claimant left work because she did not have transportation to work. Her leaving was without good cause attributable to the employer. The claimant voluntarily quit without good cause attributable to the employer. Benefits are denied.

DECISION:

The representative's August 13, 2014 (reference 01) decision is reversed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times the claimant's weekly benefit amount, provided the claimant is otherwise eligible.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/can