

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**PAMELA A EMARY**  
Claimant

**APPEAL NO. 11A-UI-10082-H2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**LUTHERAN SERVICES IN IOWA INC**  
Employer

**OC: 06-12-11**  
**Claimant: Appellant (1)**

Iowa Code § 96.5(1) – Voluntary Leaving

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the July 28, 2011, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on August 23, 2011. The claimant did participate. The employer did participate through Angela Miller, Program Supervisor.

**ISSUE:**

Did the claimant voluntarily quit his employment without good cause attributable to the employer?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a youth specialist full time beginning December 6, 2010 through June 16, 2011 when she voluntarily quit. The claimant alleged she quit when the employer would not allow her to take PTO (paid time off) to recover from a black eye she received at work. The claimant was physically able to work no physician had removed her from work; she simply wanted some time off from work. The employer denied that the claimant had ever asked to use her PTO or she would have been allowed to do so. When the claimant was hired she knew that some of the children that are residents she would be required to work with could be violent. The claimant simply decided the job was not for her. She was being reprimanded on June 15, one day prior to quitting, for her failure to properly fill out paperwork required of her involving an escalating situation with a child that got out of hand. Continued work was available for the claimant if she had not quit.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left the employment 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.

871 IAC 24.25(21) 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:

(21) The claimant left because of dissatisfaction with the work environment.

871 IAC 24.25(25) provides:

(25) The claimant left to take a vacation.

871 IAC 24.25(28) 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:

(28) The claimant left after being reprimanded.

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). 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 knew the nature of the work when she was hired and that it would involve caring for abused children who could on occasion become violent. While the administrative law judge is not persuaded that the claimant ever asked to use PTO and was denied; even if that were the case an employer's failure to let an employee take vacation is not good cause attributable to the employer for leaving the employment. The claimant simply did not like the work environment and after her reprimand putting her on notice that she was required to intervene in escalating situations, she decided to quit. While claimant's decision to quit may have been based upon good personal reasons it was not a good-cause reason attributable to the employer for leaving the employment. Benefits must be denied.

#### **DECISION:**

The July 28, 2011 (reference 01) decision is affirmed. The claimant voluntarily left her employment without good cause attributable to the employer. Benefits are withheld until such

time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

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Teresa K. Hillary  
Administrative Law Judge

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Decision Dated and Mailed

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