

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**KELLENE K RITTER**  
Claimant

**APPEAL NO. 10A-UI-15671-VST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**TACO JOHN'S**  
Employer

**OC: 09/26/10**  
**Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Quit

**STATEMENT OF THE CASE:**

The claimant filed an appeal from a representative's decision dated November 10, 2010, reference 04, which held the claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on January 5, 2011. The claimant participated. The employer participated by Zachrey Rupe, general manager. The record consists of the testimony of Kellene Ritter and the testimony of Zachrey Rupe.

**ISSUE:**

Whether the claimant voluntarily left for good cause attributable to the employer.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony of the witnesses and having considered all of the evidence in the record, makes the following findings of fact:

The employer operates a Taco Johns restaurant in Creston, Iowa. The claimant was hired on August 12, 2010, as a part-time crew member. Part time employees work from 12 to 35 plus hours per week, depending on the business of the restaurant. No specific numbers of hours are guaranteed to an employee when hired.

On September 26, 2011, the claimant went home sick. The next day, September 27, 2011, the claimant informed the employer that she was quitting. She did not believe she was getting enough hours for her commute to be economically feasible. She also thought she had another job lined up. The claimant lives in Cromwell, Iowa, and it was a six-mile commute for her to work for the employer.

## REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 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(13) 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:

(13) The claimant left because of dissatisfaction with the wages but knew the rate of pay when hired.

A quit is a separation initiated by the employee. 871 IAC 24.1(113)(b). 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 is uncontroverted that it was the claimant who initiated the separation of employment. The claimant was required to commute six miles to work and she concluded, after approximately 1½ months of employment, that her hours were insufficient for her to pay her bills and make the commute. The claimant particularly did not like having to work a split shift. The claimant was aware of the commuting distance when hired and she also knew that she had not been guaranteed any certain amount of hours. The claimant also testified that she was informed that her hours would be lower in the beginning until she received all of the training that she needed.

The claimant also testified that she quit because she thought she had another job lined up. The claimant had interviewed for another job, but it was not offered to her. The claimant quit before the job offer was made. The claimant did not tell the employer about this job when she quit. A reasonable inference from the evidence is that this potential job was just as important a factor in the decision to quit as was the lack of hours. However, even if the claimant quit solely for lack of hours, this does not constitute good cause attributable to the employer. The claimant was not guaranteed a certain number of hours per week and knew her hours would be lower until she was completely trained. The claimant decided that the hours she was working did not justify her commuting expenses. Although the claimant may have had good personal reasons for quitting her job, those reasons are not good cause attributable to the employer. Benefits are denied.

**DECISION:**

The representative's decision dated November 10, 2010, reference 04, is affirmed. Unemployment insurance benefits shall be withheld until 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.

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Vicki L. Seeck  
Administrative Law Judge

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Decision Dated and Mailed

vls/kjw