

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

CARLA B BOUTTE
Claimant

MARKETLINK INC
Employer

APPEAL 16A-UI-05958-JP-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 05/08/16
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant filed an appeal from the May 25, 2016 (reference 03) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on June 14, 2016. Claimant participated. Employer participated through human resources Stephanie Ung. Center manager Larry Schultz and sales supervisor Dawn Ramirez attended the hearing on behalf of the employer, but did not testify on this issue.

ISSUE:

Did claimant voluntarily quit the employment with good cause attributable to employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed part time as a telephone sales agent from May 9, 2016 and was separated from employment on May 10, 2016, when she quit.

On May 10, 2016, claimant called the employer and told Ms. Ung that this job took too much out of her. Ms. Ung understood that claimant was not coming back. Ms. Ung confirmed with claimant that she was resigning and claimant confirmed she was quitting. Ms. Ung accepted claimant's resignation on behalf of the employer.

Ms. Ung explained the schedule to claimant prior to her hire. There was work available for claimant had she not quit.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant's separation from the employment was 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(18) and (37) 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:

(18) The claimant left because of a dislike of the shift worked.

(37) The claimant will be considered to have left employment voluntarily when such claimant gave the employer notice of an intention to resign and the employer accepted such resignation. This rule shall also apply to the claimant who was employed by an educational institution who has declined or refused to accept a new contract or reasonable assurance of work for a successive academic term or year and the offer of work was within the purview of the individual's training and experience.

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). "Good cause" for leaving employment must be that which is reasonable to the average person, not the overly sensitive individual or the claimant in particular. *Uniweld Products v. Indus. Relations Comm'n*, 277 So.2d 827 (Fla. Dist. Ct. App. 1973). 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).

An employer is entitled to expect its employees to report to work as scheduled or to be notified when and why the employee is unable to report to work. Claimant's decision to quit because she did not agree with the schedule, when she knew the schedule at the time of hire, was not for a good cause reason attributable to the employer. While claimant's leaving the employment may have been based upon good personal reasons, it was not for a good cause reason attributable to the employer according to Iowa law. Benefits must be denied.

DECISION:

The May 25, 2016 (reference 03) unemployment insurance decision is affirmed. Claimant voluntarily left the employment without good cause attributable to the employer. Unemployment insurance benefits shall be withheld in regards to this employer, based upon wages earned during the second period of employment with this employer for the period of May 9, 2016 to May 10, 2016, until such time as claimant is deemed eligible.

Jeremy Peterson
Administrative Law Judge

Decision Dated and Mailed

jp/can