

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TERRY L DAVIS
Claimant

APPEAL NO: 13A-UI-09292-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

LINN COUNTY HUMAN RESOURCES DEPT
Employer

OC: 07/07/13
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit
871 IAC 24.25(24) – Retirement
871 IAC 24.25(37) – Resignation

STATEMENT OF THE CASE:

The claimant appealed a department decision dated August 8, 2013, reference 01, that held he voluntarily quit employment without good cause on March 18, 2013, and benefits are denied. A telephone hearing was held on September 18, 2013. The claimant participated. Diane Losch, HR Assistant, participated for the employer.

ISSUE:

The issue is whether the claimant voluntarily quit with good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge having heard the witness testimony and having considered the evidence in the record finds: The claimant began work on April 27, 1999, and last worked for the employer as a full-time senior residential worker on March 18, 2013. The claimant gave two-week notice by e-mail on February 28, 2013 she was quitting employment. Her last work day was March 18.

Claimant had some financial issues leading to employment separation. The employer did not have the client work cases to offer claimant to justify forty hours a week. During the last six months, claimant was averaging close to twenty-five hours.

Claimant learned she could receive a lump sum IPERS benefit of \$32,000.00 if she quit her job and did not return to work for the employer for thirty days. Claimant's supervisor agreed she could resign, leave employment for thirty days, and return to an on-call substitute position.

Claimant was eligible for work return on May 1 but never performed any work for the employer. She suffered a non-work-related foot injury on May 18 that required surgery. She was not medically released to work until July 3. Before her release, the employer let her know in June that it had lost funding for the program where she was to work, and no work was available.

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(22) and (37) provide:

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:

(22) The claimant left because of a personality conflict with the supervisor.

(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.

The administrative law judge concludes that the claimant voluntarily quit employment without good cause attributable to the employer on March 18, 2013 due to resignation based on retirement.

Claimant had to resign and retire in order to receive her lump sum IPERS benefit. This is a quitting of employment without good cause attributable to the employer. While the employer extended a future employment opportunity for May 1, it is considered a re-hire. Since claimant did not work there was no employment separation.

DECISION:

The department decision dated August 8, 2013, reference 01, is affirmed. The claimant voluntarily quit without good cause attributable to the employer on March 18, 2013. Benefits are denied until the claimant has worked in and is paid wages for insured work, equal to ten times her weekly benefit amount, provided the claimant is otherwise eligible.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/css