

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**PENNY L MANNING**  
Claimant

**APPEAL NO. 11A-UI-05638-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**PAPETTI'S OF IOWA**  
Employer

**OC: 03/27/11**  
**Claimant: Appellant (1)**

Section 96.5(1) – Voluntary Quit

**STATEMENT OF THE CASE:**

Penny Manning filed a timely appeal from the April 20, 2011, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on May 24, 2011. Ms. Manning participated. Auby Ninemire, Supervisor of Safety of Training, represented the employer. Exhibit One was received into evidence.

**ISSUE:**

Whether Ms. Manning's voluntary quit was for good cause attributable to the employer.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Penny Manning was employed by Papetti's of Iowa as a full-time Operator 3 until February 18, 2011, when she voluntarily quit to relocate from Lennox, Iowa to Clinton. Ms. Manning and her husband had been staying with the husband's father. When the husband's father sold his house, Ms. Manning and her husband had to find new living arrangements. Ms. Manning's husband had undergone surgery on January 14, 2011. Upon his release from the hospital, Mr. Manning had moved to Clinton to live with his sister while he continued his recovery. Ms. Manning joined her husband in Clinton two or three weeks later. Ms. Manning started her search for new employment as soon as she settled in Clinton. Mr. Manning's sister was available to assist Mr. Manning while Ms. Manning searched for work. Ms. Manning obtained new, full-time employment in mid-May 2011 and continues in that employment. Since Ms. Manning separated from Papetti's of Iowa, she has not returned to that employer to offer her services.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Code section 96.5-1-c 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. But the individual shall not be disqualified if the department finds that:

c. The individual left employment for the necessary and sole purpose of taking care of a member of the individual's immediate family who was then injured or ill, and if after said member of the family sufficiently recovered, the individual immediately returned to and offered the individual's services to the individual's employer, provided, however, that during such period the individual did not accept any other employment.

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.

When a person voluntarily quits employment to relocate to a new locality, the quit is presumed to be without good cause attributable to the employer. See 871 IAC 24.25(2).

The weight of the evidence establishes that Ms. Manning voluntarily quit the employment to relocate to Clinton because she had lost her living arrangements in Lennox. While Mr. Manning's health played a factor in the decision to relocate to Clinton, Ms. Manning did not quit so that she could provide care to her husband. Mr. Manning's sister was available to do that while Ms. Manning looked for new work or while she was at work. Ms. Manning in fact obtained new full-time employment and continues in that employment. Mr. Manning has not recovered and Ms. Manning has not returned to Papetti's to offer her services. For all these reasons, the administrative law judge concludes that Ms. Manning's voluntary quit was without good cause attributable to the employer. Accordingly, Ms. Manning is disqualified for benefits until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. The employer's account shall not be charged for benefits paid to Ms. Manning.

#### **DECISION:**

The Agency representative's April 20, 2011, reference 01, decision is affirmed. The claimant voluntarily quit the employment without good cause attributable to the employer. The claimant is disqualified for benefits until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. The employer's account shall not be charged.

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James E. Timberland  
Administrative Law Judge

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Decision Dated and Mailed

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