

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DARCY A OSTERKAMP
Claimant

APPEAL NO. 12A-UI-01490-MT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**ANAMOSA COMMUNITY SCHOOL
DISTRICT**
Employer

OC: 11/14/10
Claimant: Appellant (2)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated February 3, 2012, reference 10, which held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on March 5, 2012. Claimant participated and was represented by legal assistant, Virginia McCalmont. Employer participated by Brian Ney, Superintendant.

ISSUE:

The issue in this matter is whether claimant quit for good cause attributable to employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on May 2011. Claimant was laid off from her job as a part-time health aide. Claimant was told that she was not a good fit but could apply for other jobs in the fall. Claimant was not given any assurance of future employment. Claimant was then offered a different job with completely different duties August 16, 2011. Claimant had moved away from the school district before the job offer was made.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge holds that the evidence has established that claimant voluntarily quit for good cause attributable to employer when employer terminated the employment relationship because claimant was not a good fit for the health aide job. The offer of different work in the fall was a significant change in the contract of hire. Claimant had no obligation to accept a job different than what she had worked the prior year. This is a separation for good cause attributable to employer because of an employer initiated unilateral change in the contract of hire. Benefits allowed.

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 24.26(1) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(1) A change in the contract of hire. An employer's willful breach of contract of hire shall not be a disqualifiable issue. This would include any change that would jeopardize the worker's safety, health or morals. The change of contract of hire must be substantial in nature and could involve changes in working hours, shifts, remuneration, location of employment, drastic modification in type of work, etc. Minor changes in a worker's routine on the job would not constitute a change of contract of hire.

DECISION:

The decision of the representative dated February 3, 2012, reference 10, is reversed. Unemployment insurance benefits are allowed, provided claimant is otherwise eligible.

Marlon Mormann
Administrative Law Judge

Decision Dated and Mailed

mdm/css