

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MALLORY A MCCABE
Claimant

APPEAL NO. 09A-UI-15625-MT

**ADMINISTRATIVE LAW JUDGE
DECISION**

PINNACLE TELEMARKETING LTD
Employer

OC: 09/27/09
Claimant: Appellant (4R)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated October 15, 2009, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on November 19, 2009. Claimant participated. Employer participated by Brian Haxton, Vice President Operations.

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 part time for employer on September 17, 2009. Claimant quit due to dissatisfaction with the work environment. Claimant did not think she had sufficient training to do the job. Claimant also quit due to erratic work hours. Claimant was hired part time. Claimant asserts she was told she would get full time hours but the paper work given claimant at the time of hire indicates part time. Claimant also quit because she was a diabetic and alleges trouble taking insulin shots at scheduled times. Claimant was allowed the break opportunity to take insulin.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge holds that the evidence has failed to establish that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship because of dissatisfaction with the work environment. There was no promise of full time work.

Claimant however did quit part time work which does not disqualify claimant automatically. Claimant may be eligible for benefits based on credits from other employers accrued during the base period. This matter is remanded for determination on eligibility. Employer's account shall not be charged.

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 24.27 provides:

Voluntary quit of part-time employment and requalification. An individual who voluntarily quits without good cause part-time employment and has not requalified for benefits following the voluntary quit of part-time employment, yet is otherwise monetarily eligible for benefits based on wages paid by the regular or other base period employers, shall not be disqualified for voluntarily quitting the part-time employment. The individual and the part-time employer which was voluntarily quit shall be notified on the Form 65-5323 or 60-0186, Unemployment Insurance Decision, that benefit payments shall not be made which are based on the wages paid by the part-time employer and benefit charges shall not be assessed against the part-time employer's account; however, once the individual has met the requalification requirements following the voluntary quit without good cause of the part-time employer, the wages paid in the part-time employment shall be available for benefit payment purposes. For benefit charging purposes and as determined by the applicable requalification requirements, the wages paid by the part-time employer shall be transferred to the balancing account.

871 IAC 24.25(21) 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:

- (21) The claimant left because of dissatisfaction with the work environment.

DECISION:

The decision of the representative dated October 15, 2009, reference 01, is modified and remanded. Unemployment insurance benefits shall be withheld until claimant has worked in

and been paid wages for insured work equal to ten times claimant's weekly benefit amount, unless claimant is otherwise eligible based on credits from other employment. Employer's account shall not be charged.

Marlon Mormann
Administrative Law Judge

Decision Dated and Mailed

mdm/pjs