

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**ASHLEY M BRYANT**  
Claimant

**FMKIRK LLC**  
Employer

**APPEAL 17A-UI-09141-H2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 08/13/17**  
**Claimant: Appellant (1)**

Iowa Code § 96.5(1) – Voluntary Quitting

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the August 29, 2017, (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on September 26, 2017. Claimant participated. Employer participated through Aaron Burkey, General Manager.

**ISSUE:**

Did the claimant voluntarily quit her employment without good cause attributable to the employer?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed for 30 hours per week, as a crew person/cashier/cook in a Pancheros restaurant beginning on November 2, 2016, through August 12, 2017, she voluntarily quit.

The claimant was pregnant at the end of her employment. At no time did she ever provide her employer with any work restrictions from her doctor. When the claimant would complain to Mr. Burkey that her feet hurt or that she was tired, because she was so far along in her pregnancy, he would let her sit down. Mr. Burkey treated the claimant more leniently than other employees due in large part to her pregnancy.

The claimant was unhappy that Mr. Burkey would schedule her to be to work at eight or nine a.m. The claimant was specifically told that she needed to be to work on time to meet the needs of the business. The claimant was not allowed to pick her starting time for work.

The claimant was not happy with management decisions that Mr. Burkey made including her opinion that he was a lazy manager and that he did not appreciate her enough. The claimant was upset that she had never been named employee of the month.

On July 31, 2017 the claimant gave a two week verbal notice of her intent to quit her employment. The claimant's reason for quitting was to rest up for the birth of her child. At the time the claimant quit her job, she and Mr. Burkey agreed she would work until August 12. If the claimant had not quit the employer would have continued to schedule her to work.

### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left the employment without good cause attributable to the employer.

Iowa Code section 96.5(1) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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(20) 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:

(20) The claimant left for compelling personal reasons; however, the period of absence exceeded ten working days.

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). 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).

The claimant never provided the employer with any work restrictions from her doctor. The employer was more lenient with the claimant due to her pregnancy and let her sit down or rest frequently. The claimant was not treated any differently than any other employee. The employer was not under any obligation to designate the claimant as 'employee of the month.' The claimant had no authority to determine how Mr. Burkey made management decisions. The claimant simply quit working because she was pregnant and wanted to rest before she had her baby. The claimant has not established any good cause reason attributable to the employer for her leaving her employment. While claimant's decision to quit may have been based upon good personal reasons it was not a good-cause reason attributable to the employer for leaving the employment. Benefits must be denied.

**DECISION:**

The August 29, 2017, (reference 01) decision is affirmed. The claimant voluntarily left her employment without good cause attributable to the employer. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

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Teresa K. Hillary  
Administrative Law Judge

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Decision Dated and Mailed

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