

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SARA E SCHAFER
Claimant

APPEAL NO. 08A-UI-04213-MT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MILESTONE CORPORATION
Employer

**OC: 04/06/08 R: 03
Claimant: Respondent (1)**

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Employer filed an appeal from a decision of a representative dated April 25, 2008, reference 01, which held claimant eligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on May 14, 2008. Claimant participated. Employer participated by Mark Kuckler, Vice President.

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 April 3, 2008. Claimant quit for a new and better job. Claimant had the job lined up prior to quitting. Employer discharged claimant prior to her scheduled last day of work April 16. Claimant was let go on April 7, 2008. Claimant would have worked through April 16, 2008 but for the discharge.

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 of a resignation that was to be effective April 16, 2008. Claimant is eligible April 12, 2008 through April 19, 2008.

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.

Iowa Code section 96.5-1-a 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:

a. The individual left employment in good faith for the sole purpose of accepting other or better employment, which the individual did accept, and the individual performed services in the new employment. Benefits relating to wage credits earned with the employer that the individual has left shall be charged to the unemployment compensation fund. This paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

871 IAC 24.28(5) provides:

Voluntary quit requalifications and previously adjudicated voluntary quit issues.

(5) The claimant shall be eligible for benefits even though the claimant voluntarily quit if the claimant left for the sole purpose of accepting an offer of other or better employment, which the claimant did accept, and from which the claimant is separated, before or after having started the new employment.

Claimant quit for new and better employment. This is a quit that qualifies claimant for benefits. Claimant is eligible for benefits effective April 20, 2008 with credits transferred to the unemployment compensation fund.

871 IAC 24.25(38) 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:

(38) Where the claimant gave the employer an advance notice of resignation which caused the employer to discharge the claimant prior to the proposed date of resignation, no disqualification shall be imposed from the last day of work until the proposed date of resignation; however, benefits will be denied effective the proposed date of resignation.

DECISION:

The decision of the representative dated April 25, 2008, reference 01, is affirmed. Unemployment insurance benefits are allowed, provided claimant is otherwise eligible through April 19, 2008. Claimant has qualified for benefits effective April 20, 2008 because she left for

better employment. Credits after April 20, 2008 shall be transferred to the unemployment compensation fund.

Marlon Mormann
Administrative Law Judge

Decision Dated and Mailed

mdm/css