

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ESTHER ROSE
Claimant

APPEAL NO: 13A-UI-01337-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

CARE INITIATIVES
Employer

OC: 01/06/13
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Leaving
871 IAC 24.25(26) – Voluntary Leaving – School

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the January 30, 2013, reference 01, decision that denied benefits. After due notice was issued, a telephone hearing was held before Administrative Law Judge Julie Elder on April 2, 2013. The claimant participated in the hearing. Connie Mollenburg, Dietary Services Manager and Toni Kerr, Employer Representative, participated in the hearing on behalf of the employer.

ISSUE:

The issue is whether the claimant voluntarily left her employment with good cause attributable to the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time dietary aide/cook for Care Initiatives from July 22, 2002 to January 7, 2013. The claimant gave the employer a two-week resignation notice effective January 7, 2013, because she was leaving to attend massage therapy classes. The claimant's hours were 6:00 a.m. to 2:30 p.m. and she was required to work every other weekend. Her scheduled days during the week varied. The claimant's school schedule was 8:00 a.m. to 6:45 p.m. Tuesdays, Thursdays and Saturdays.

On January 3, 2013, the claimant talked to dietary services manager Connie Mollenburg about continuing to work around her school schedule and Ms. Mollenburg stated she would speak to administrator Linda Lee. Ms. Lee denied the claimant's request because she could not meet the employer's requirement of working every other weekend as her school schedule prevented her from working on Saturdays. Additionally, the employer did not want to set a precedent of allowing employees to only work one weekend day.

REASONING AND CONCLUSIONS OF LAW:

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

871 IAC 24.25(1) 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:

(1) The claimant's lack of transportation to the work site unless the employer had agreed to furnish transportation.

871 IAC 24.25(26) 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:

(26) The claimant left to go to school.

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code Section 96.6-2. While the claimant maintains her employment was terminated, she submitted her resignation notice because she was going to school as a full-time student and the employer could not accommodate her school hours. The claimant could not meet the employer's requirements of working every other weekend because she could not work Saturdays. The separation was initiated by the claimant's resignation notice and her inability to work the schedule required by the employer. The employer is not required to accommodate an employee's school schedule and simply by refusing to do so does not turn the separation into a termination of employment. Under these circumstances, the administrative law judge concludes the claimant voluntarily left her employment to attend school and has not demonstrated that her leaving was for good cause attributable to the employer as that term is defined by Iowa law. Therefore, benefits are denied.

DECISION:

The January 30, 2013, 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.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

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