

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KARLA PINCKNEY
Claimant

APPEAL NO: 09A-UI-10236-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

COTTAGE GROVE PLACE
Employer

OC: 03-29-09
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the July 16, 2009, reference 05, decision that denied benefits. After due notice was issued, a telephone hearing was held before Administrative Law Judge Julie Elder on August 4, 2009. The claimant participated in the hearing. Cindy Hawkins, Human Resources Director, 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 nurse for Cottage Grove Place from April 13, 2009 to May 31, 2009. The claimant left a message on the employer's staffing line May 31, 2009, stating she would not be coming in June 1, 2009, and would not be coming back. The employer tried to call her several times without success and did not have any further contact with her. The claimant testified she was driving 100 miles each way to and from work because she could not find a place to rent in Cedar Rapids that would accept her two Dalmatians and between that and the cost of gas and the wear and tear on her car she "couldn't do it anymore." The claimant lived in Newton and was aware of the commuting distance when she accepted the position in Cedar Rapids.

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.

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 24.25(30) 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:

(30) The claimant left due to the commuting distance to the job; however, the claimant was aware of the distance when hired.

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. 871 IAC 24.25. 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. The claimant left due to the commuting distance from her home in Newton to her job in Cedar Rapids. While she expected to find a place to live in Cedar Rapids she was unable to find one that would accept her dogs. Although the claimant's reasons for leaving are understandable she was aware of the commuting distance at the time she accepted the position and consequently is not eligible for unemployment insurance benefits under Iowa law. Therefore, benefits must be denied.

DECISION:

The July 16, 2009, reference 05, 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

je/pjs