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

JULIE A LAXTON
Claimant

APPEAL NO. 11A-UI-11843-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

YOUNG MENS CHRISTIAN ASSOCIATION
Employer

OC: 08/07/11
Claimant: Appellant (4)

Iowa Code § 96.5(1) – Voluntary Leaving
871 IAC 24.27 – Voluntary Leaving Part Time Employment

STATEMENT OF THE CASE:

Julie Laxton (claimant) appealed a representative's August 29, 2011 decision (reference 01) that concluded she was not eligible to receive unemployment insurance benefits, because she voluntarily quit work with Young Men's Christian Association (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for September 30, 2011. The claimant participated personally. The employer participated by Tami Ruppel, payroll administrator.

ISSUE:

The issue is whether the claimant was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds that: The claimant was hired on April 8, 2011, as a part-time nursery attendant. The claimant's last day of work was June 6, 2011. She quit work to move with her husband to Tennessee. Continued work was available had the claimant not resigned.

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, but has not requalified and is otherwise monetarily eligible.

Iowa Code § 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(2) 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 § 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 § 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:

> (2) The claimant moved to a different locality.

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's intention to voluntarily leave work was evidenced by her words and actions. She told the employer that she was leaving and quit work. When an employee quits work because she is moving to a different location, her leaving is without good cause attributable to the employer. The claimant left work because she was moving to a different locality. Her leaving was without good cause attributable to the employer.

Inasmuch as her leaving was without good cause attributable to the employer, the separation is disqualifying. However, the claimant has not requalified for benefits since the separation but is otherwise monetarily eligible according to base period wages. Benefits are allowed, provided the claimant is otherwise eligible.

DECISION:

The representative's August 29, 2011 decision (reference 01) is modified in favor of the appellant. The claimant voluntarily left the employment without good cause attributable to the employer and has not requalified for benefits but is otherwise monetarily eligible. Benefits are allowed, provided the claimant is otherwise eligible. The account of this employer shall not be charged.

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Beth A. Scheetz
Administrative Law Judge

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Decision Dated and Mailed

bas/kjw