

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**PAMELA J HOBBS**  
Claimant

**APPEAL NO. 11A-UI-15651-NT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CEDAR RAPIDS COMM SCHOOL DIST**  
Employer

**OC: 10/30/11**  
**Claimant: Respondent (2R)**

Section 96.5-1 - Voluntary Quit

**STATEMENT OF THE CASE:**

Cedar Rapids Community School District filed a timely appeal from a representative's decision dated November 29, 2011, reference 02, which held claimant eligible to receive unemployment insurance benefits. After due notice, a telephone hearing was held on January 9, 2012. The claimant participated personally. Although the claimant was duly notified she did not respond to the notice of hearing and did not participate. The employer participated by Ms. Michelle Koelling, Confidential Secretary Human Resource Department. Employer's Exhibit One, Two, Three and Four were received into evidence.

**ISSUE:**

At issue is whether the claimant left employment with good cause attributable to the employer.

**FINDINGS OF FACT:**

Having considered the evidence in the record, the administrative law judge finds: Pamela Hobbs was employed by the Cedar Rapids Community School District as a full-time teacher associate from March 6, 2006 until she voluntarily resigned her position on August 14, 2011. Ms. Hobbs was paid by the hour.

Ms. Hobbs voluntarily left her employment with the Cedar Rapids Community School after submitting her resignation to the employer in writing on August 14, 2011 (See Exhibit Three). Work continued to be available to the claimant in her normal capacity as a teacher associate working with special needs student at the time that the claimant chose to leave her employment. The claimant's employment as a teacher associate was not linked to any particular special needs student although the claimant had worked with one special needs student for an extended period. At the time of the claimant's leaving work continued to be available to her.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes that the claimant voluntarily left 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(37) 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:

(37) The claimant will be considered to have left employment voluntarily when such claimant gave the employer notice of an intention to resign and the employer accepted such resignation. This rule shall also apply to the claimant who was employed by an educational institution who has declined or refused to accept a new contract or reasonable assurance of work for a successive academic term or year and the offer of work was within the purview of the individual's training and experience.

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. An individual who voluntarily leaves their employment must first give notice to the employer of the reasons for quitting in order to give the employer an opportunity to address or resolve any complaints. Cobb v. Employment Appeal Board, 506 N.W.2d 445 (Iowa 1993).

In this case the claimant voluntarily quit her position with the Cedar Rapids Community School District based upon a personal decision to resign. The claimant was aware that work continued to be available to her in her capacity as a full-time teacher associate at the time that she chose to leave. The claimant did not have a contract for employment specific to providing assistance to any particular special needs student and chose to leave voluntarily while work was still available to her.

While the claimant's reasons for leaving may have been good cause reasons from her personal viewpoint, the evidence in the record does not establish good cause reasons attributable to the employer. Unemployment insurance benefits are withheld.

Iowa Code section 96.3-7, as amended in 2008, provides:

7. Recovery of overpayment of benefits.

a. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from

any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

b. (1) If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5. However, provided the benefits were not received as the result of fraud or willful misrepresentation by the individual, benefits shall not be recovered from an individual if the employer did not participate in the initial determination to award benefits pursuant to section 96.6, subsection 2, and an overpayment occurred because of a subsequent reversal on appeal regarding the issue of the individual's separation from employment. The employer shall not be charged with the benefits.

(2) An accounting firm, agent, unemployment insurance accounting firm, or other entity that represents an employer in unemployment claim matters and demonstrates a continuous pattern of failing to participate in the initial determinations to award benefits, as determined and defined by rule by the department, shall be denied permission by the department to represent any employers in unemployment insurance matters. This subparagraph does not apply to attorneys or counselors admitted to practice in the courts of this state pursuant to section 602.10101.

**DECISION:**

The representative's decision dated November 29, 2011, reference 02, is reversed. The claimant left employment without good cause attributable to the employer. Unemployment insurance benefits are withheld until the claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, and meets all other eligibility requirements of Iowa law. The issue of whether the claimant must repay unemployment insurance benefits is remanded to the UIS Division for determination.

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Terence P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

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