

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DONIS J SCHRUM-CHRISTENSEN
Claimant

APPEAL NO: 13A-UI-03031-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CASS COUNTY MEMORIAL HOSPITAL
Employer

**OC: 02/10/13
Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Leaving
§ 17A.12-3 – Non-appearance of Party
871 IAC 26.8(5) – Decision on the Record
871 IAC 26.14(7) – Late Call

STATEMENT OF THE CASE:

Donis J. Schrum-Christensen (claimant) appealed a representative's March 6, 2013 decision (reference 01) that concluded she was not qualified to receive unemployment insurance benefits after a separation from employment with Cass County Memorial Hospital (employer). Hearing notices were mailed to the parties' last known addresses of record for a telephone hearing to be held at 9:30 a.m. on April 11, 2013. The claimant received the hearing notice and responded by calling the Appeals Section on March 25, 2013. She indicated that she would be available at the scheduled time for the hearing at a specified telephone number. However, when the administrative law judge called that number at the scheduled time for the hearing, the claimant was not available; therefore, she did not participate in the hearing. The administrative law judge considered the record closed at 9:40 a.m. At 9:46 a.m., the claimant called the Appeals Section and requested that the record be reopened. Based on a review of the available information and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUES:

Should the hearing record be reopened? Did the claimant voluntarily quit for a good cause attributable to the employer?

OUTCOME:

Affirmed. Benefits denied.

FINDINGS OF FACT:

The parties were properly notified of the scheduled hearing on this appeal. The claimant received the hearing notice prior to the April 11, 2013 hearing. The instructions inform the parties that they are to be available at the specified time for the hearing, and that if they cannot be reached at the time of the hearing at the number they provided, the judge may decide the

case on the basis of other available evidence. The claimant failed to be available at the scheduled day and time set for the hearing and did not participate in the hearing or request a postponement of the hearing as required by the hearing notice. The reason the claimant was unavailable was that she had been engaged in other employment and had been occupied with that work when the administrative law judge called for the hearing.

The claimant worked for the employer full time as a registered nurse. Her last day of work was June 2, 2012. She voluntarily quit as of that date, having previously submitted her written notice of resignation. Her resignation did not state her reason for quitting, indicating only that she was "ready for a positive change in my future for my kids and I." Her actual reason for quitting was to stay home for a period of time to provide care for her 13-year-old disabled son.

She had initially only planned to remain unemployed over the summer. Her retirement benefits which were released to her upon her resignation allowed her to stay off work for about six months. She began seeking other employment after the start of the New Year.

The claimant's son, who weighs about 100 pounds, is confined to a wheelchair. He has some serious spinal deformities that could cause further harm to him if he suffered further back injuries, such as through falling while being transferred. He was becoming heavy enough that the claimant was concerned about further harm to him as well as harm to the claimant's other two children or her 81-year-old mother, who were otherwise providing care to her son. As a result the claimant determined that she should be the one take care of getting him ready each morning and prepare him for school. As a result, she determined that she needed to find employment that would provide a sufficiently flexible schedule so that she could provide that morning care for her son.

REASONING AND CONCLUSIONS OF LAW:

The first issue in this case is whether the claimant's request to reopen the hearing should be granted or denied. After a hearing record has been closed the administrative law judge may not take evidence from a non-participating party but can only reopen the record and issue a new notice of hearing if the non-participating party has demonstrated good cause for the party's failure to participate. 871 IAC 26.14(7)b. The record shall not be reopened if the administrative law judge does not find good cause for the party's late contact. *Id.* Failing to read or follow the instructions on the notice of hearing are not good cause for reopening the record. 871 IAC 26.14(7)c.

The claimant was not available for the April 11, 2013 hearing until after the hearing record had been closed. Although the claimant intended to participate in the hearing, the claimant failed to read or follow the hearing notice instructions to be available at the scheduled time and day for the hearing. The rule specifically states that failure to read or follow the instructions on the hearing notice does not constitute good cause to reopen the hearing. The claimant did not establish good cause to reopen the hearing. Therefore, the claimant's request to reopen the hearing is denied.

If the claimant voluntarily quit her employment, she is not eligible for unemployment insurance benefits unless it was for good cause attributable to the employer. Iowa Code § 96.5-1. Rule 871 IAC 24.25 provides that, 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. A voluntary leaving of employment requires an intention to terminate the employment relationship and an action to carry out that intent.

Bartelt v. Employment Appeal Board, 494 N.W.2d 684 (Iowa 1993); *Wills v. Employment Appeal Board*, 447 N.W.2d 137, 138 (Iowa 1989). The claimant did express or exhibit the intent to cease working for the employer and did act to carry it out. The claimant would be disqualified for unemployment insurance benefits unless she voluntarily quit for good cause.

The claimant has the burden of proving that the voluntary quit was for a good cause that would not disqualify her. Iowa Code § 96.6-2. Leaving because of lack of adequate childcare is not a reason for quitting that will not result in disqualification. 871 IAC 24.25(17). Leaving for compelling personal circumstances or serious family responsibilities are good personal reasons for quitting, but not reasons which are attributable to the employer or which will not result in disqualification, particularly where the period of absence exceeds ten days. 871 IAC 24.25(20, 23). The claimant has not satisfied her burden. Benefits are denied.

DECISION:

The representative's March 6, 2013 decision (reference 01) is affirmed. The claimant voluntarily left her employment without good cause attributable to the employer. As of June 2, 2013, benefits are withheld until such time as the claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/css