

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BAMBI L PINKERTON
Claimant

APPEAL NO. 10A-UI-05456-LT

**ADMINISTRATIVE LAW JUDGE
DECISION**

SCHOOL DISTRICT OF ASHLAND
Employer

OC: 01/24/10
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the April 6, 2010 (reference 01) decision that denied benefits. After due notice was issued, a telephone conference hearing was held on May 26, 2010. Claimant participated. Employer participated through Randi Johnson, Michelle Vuorenmaa and Lucy Neider.

ISSUE:

The issue is whether claimant is able to and available for work effective January 24, 2010.

FINDINGS OF FACT:

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: Claimant most recently worked as a substitute classroom aide and kitchen aide and was separated from employment on March 9, 2010. She had a work injury and was called to work in the kitchen on March 9 and she agreed but asked the employer to accommodate rest periods and working on one crutch since her knee had swollen after having worked in the kitchen the prior Friday. Employer declined to accommodate her because there were no current medical restrictions and indicated she would contact the workers' compensation carrier and the unemployment office to find out how to handle the situation.

On March 11 she told substitute coordinator Julie Vitek to take her name off the staff list because she was moving out of the area and did not leave a forwarding address. Claimant moved to Stevens Point, Wisconsin on March 14, 2010 after being told on March 9 that she had been approved for housing. After receiving the February 4, 2010 housing letter from Stevens Point claimant asked Johnson to report to IWD that she was on a leave of absence so she would not be denied unemployment. She said she was moving because of access to her son's orthodontia provider, she was getting kicked out of her apartment, her injury, and because she could live with her sister.

REASONING AND CONCLUSIONS OF LAW:

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

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.

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). While claimant's decision to quit may have been based upon good personal reasons it was not a good-cause reason attributable to the employer for leaving the employment. Benefits must be denied.

DECISION:

The April 6, 2010 (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.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/css