

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MICHEALRIA C ELLISTON**  
Claimant

**APPEAL NO. 12A-UI-10874-MT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**WELLS FARGO BANK NA**  
Employer

**OC: 08/05/12**  
**Claimant: Appellant (2)**

Section 96.5-1 – Voluntary Quit

**STATEMENT OF THE CASE:**

Claimant filed an appeal from a decision of a representative dated August 23, 2012, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on August 23, 2012. Claimant participated. Employer participated by Eka Otu, hearing representative Barnett, with witness Landon Shanks, loan administration manager.

**ISSUE:**

The issue in this matter is whether claimant quit for good cause attributable to employer.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds: Claimant last worked for employer on August 6, 2012. Claimant was given a partial work restriction July 30, 2012. Claimant was ordered by her doctor to limit her work week to 30 hours. Employer was under pressure to get the work out and unable to accommodate the 30-hour restriction due to business needs. Claimant had FMLA available. Employer refused to allow claimant to work 30 hours and then take the remaining hours as FMLA. Claimant was left to look for other work within Wells Fargo or quit. Employer did not offer claimant any other jobs after refusing to accommodate the work restriction.

**REASONING AND CONCLUSIONS OF LAW:**

The administrative law judge holds that the evidence has failed to establish that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship because employer did not grant FMLA leave above the 30 hours a week. Employer denied FMLA due to business needs. This is a violation of FMLA. Claimant's quit was for good cause attributable to employer when employer violated the Family Medical Leave Act. Employer's forcing claimant to work 50 hours a week or go out of work is good cause attributable to employer for a quit. Benefits allowed.

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 24.26(3) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(3) The claimant left due to unlawful working conditions.

**DECISION:**

The decision of the representative dated August 23, 2012, reference 01, is reversed. Unemployment insurance benefits are allowed, provided claimant is otherwise eligible.

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Marlon Mormann  
Administrative Law Judge

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Decision Dated and Mailed

mdm/kjw