

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MELISSA M TRUITT
Claimant

APPEAL NO. 09A-UI-09876-E2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

ROBERT HALF CORPORATION
Employer

OC: 05/31/09
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated July 1, 2009, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on July 27, 2009. Claimant participated. Employer participated by Sam Williams.

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 considered all of the evidence in the record, finds: Claimant last worked for employer on January 23, 2009. The claimant worked for Office Temp, which is owned by Robert Half Corp. The claimant was employed by Office Temp and was on assignment to Mercer Administration on a temp-to-hire basis. The claimant's husband is in the military. He received official notification in December 2008 that he was being assigned to a base in Fort Campbell, Kentucky. He reported for his assignment on January 7, 2009. The claimant notified her supervisor in November and December that her husband was going to be assigned to a different location and that she may have to move. The claimant provided notice to her employer and Mercer Administration that she was resigning because her husband was transferred to a base out of state. The claimant left work in good standing. Work at Mercer Administration was still available to the claimant at the time she resigned.

REASONING AND CONCLUSIONS OF LAW:

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(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 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:

(2) The claimant moved to a different locality.

A quit is a separation initiated by the employee. 871 IAC 24.1(113)(b). In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 698, 612 (Iowa 1980) and Peck v. EAB, 492 N.W.2d 438 (Iowa App. 1992). 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. See 871 IAC 24.25.

The claimant quit her employment. Under current Iowa law the quit is not deemed to be with good cause attributable to the employer and as such the claimant is not eligible for unemployment benefits.

The claimant had very good personal reason to quit. The claimant's reason for quitting was so that she could be with and support her spouse, a member of the U.S military. As a matter of good public policy it would make sense to recognize that "trailing" military spouses need to quit employment to move with their spouse and allow unemployment benefits. Unfortunately current Iowa law does not recognize a quit of a trailing spouse to be good cause and the claimant and other spouses of persons serving in the military are not eligible for unemployment when they quit to be with their spouse who is transferred to a new location in service to this country.

The administrative law judge holds that the evidence has failed to established that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship because she need to move with her husband who was transferred out of the state.

DECISION:

The decision of the representative dated July 1, 2009, reference 01, is affirmed. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.

James Elliott
Administrative Law Judge

Decision Dated and Mailed

jfe/pjs

