

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

NICOLE R TORRES
Claimant

APPEAL NO. 09A-UI-11368-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WELLS FARGO BANK NA
Employer

**Original Claim: 06/07/09
Claimant: Appellant (1)**

Iowa Code section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Nicole Torres filed a timely appeal from the July 31, 2009, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on August 24, 2009. Ms. Torres participated. The employer did not respond to the hearing notice instructions to provide a telephone number for the hearing and did not participate.

ISSUE:

Whether Ms. Torres' voluntary quit was for good cause attributable to the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Nicole Torres was employed by Wells Fargo Bank as a full-time Loan Adjuster Specialist until January 9, 2009, when she voluntarily quit. Ms. Torres had notified her immediate supervisor at the end of December 2008 or beginning of January 2009 that she would be resigning to move to the Omaha area. Ms. Torres' husband was residing in Omaha at the time and Ms. Torres had a lead on possible employment in the Omaha area. Ms. Torres had not actually accepted other employment. Ms. Torres worked out her notice period at Wells Fargo Bank and voluntarily separated from the employer on January 9, 2009.

After the separation from Wells Fargo Bank, Ms. Torres' job lead fell through and Ms. Torres decided not to relocate to the Omaha area after all.

Ms. Torres has had some additional employment with a temporary employment agency, but has not yet earned ten times her weekly benefit amount since separating from Wells Fargo Bank. The weekly benefit amount is \$375.00. Ten times that amount would be \$3,750.00.

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.

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.

When a person voluntarily quits to relocate to a new locality, the separation from employment is presumed to be without good cause attributable to the employer. See 871 IAC 24.25(2).

The evidence in the record establishes that Ms. Torres resigned from the employment for the purpose of relocating to another locality. Ms. Torres' voluntary quit was without good cause attributable to the employer. Accordingly, Ms. Torres is disqualified for benefits until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. See Iowa Code section 96.5(1)(g). The employer's account shall not be charged for benefits paid to Ms. Torres. Ms. Torres has not yet earned enough since leaving Wells Fargo Bank to requalify for benefits.

DECISION:

The Agency representative's July 31, 2009, reference 01, decision is affirmed. The claimant voluntarily quit the employment without good cause attributable to the employer. The claimant is disqualified for benefits until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. The employer's account shall not be charged.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/kjw