

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LOIS A BERGMAN

Claimant

APPEAL NO: 12A-UI-03588-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

EXPRESS SERVICES INC

Employer

OC: 02/19/12

Claimant: Appellant (1)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

Lois A. Bergman (claimant) appealed a representative's April 4, 2012 decision (reference 01) that concluded she was not qualified to receive unemployment insurance benefits after a separation from employment with Express Services, Inc. (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on April 23, 2012. The claimant participated in the hearing. Matt Timmerman appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the claimant voluntarily quit for a good cause attributable to the employer?

OUTCOME:

Affirmed. Benefits denied.

FINDINGS OF FACT:

The employer is a temporary employment firm. The claimant began taking assignments with the employer's Dubuque, Iowa, office in November 2010. Her final assignment began on February 7, 2012. She was to work part-time doing customer service and cleaning flowers at the employer's business client's floral business. The work was to be every day through February 14. Her last day on the assignment was February 8, 2012.

The claimant's non-custodial ex-husband had taken their son from the area on February 9; as a result, she called and reported that, with dealing with trying to recover her son, reporting to work on the assignment was "too much" for her that day. She made the same report on February 10. On February 11 she called the client only, not the employer, and the client indicated that it would call her if she was needed. The claimant made no calls to the business client or the employer on February 12. Her son was returned to her on February 13. She did not return to work that day or make any contacts to the business client or the employer, nor did she on February 14. She went into the employer's office on February 17 to pick up her check; she

reported she had had to leave the assignment due to personal issues. She did not seek to return to other work at that time.

REASONING AND CONCLUSIONS OF LAW:

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 family responsibilities or serious family needs is a good personal reason for leaving, but not one attributable to the employer. 871 IAC 24.25(23). Even treating the reason for leaving as being for a compelling personal reason, she did not seek to return to work within ten working days. 871 IAC 24.25(20). The claimant has not satisfied her burden. Benefits are denied.

DECISION:

The representative's April 4, 2012 decision (reference 01) is affirmed. The claimant voluntarily left her employment without good cause attributable to the employer. As of February 9, 2012, 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/kjw