

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JILL A LEHMAN
Claimant

APPEAL NO. 07A-UI-10915-LT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**L A LEASING INC
SEDONA STAFFING**
Employer

**OC: 10/07/07 R: 03
Claimant: Appellant (1)**

Iowa Code § 96.5(1) – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the November 16, 2007, reference 02, decision that denied benefits. After due notice was issued, a telephone conference hearing was held on December 11, 2007. Claimant participated. Employer participated through Anna Nielsen and Colleen McGuinty.

ISSUE:

The issue is whether claimant quit the employment without good cause attributable to the employer.

FINDINGS OF FACT:

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: Claimant was employed as a full time temp-to-hire secretary at Motion Industries (Motion) from June 14, 2007 until September 27, 2007 when she quit. She stopped showing up to work and the manager of Motion reported the separation to L A Leasing (Sedona) that she would not be hired permanently because she failed two preemployment drug screens administered by Motion. The initial drug screen results were provided on September 19 and Motion supervisor Ryan Wallace discharged her from the assignment. He called her back to work on September 20 in spite of the drug screen results and another drug screen was administered. Those results were provided to claimant by the medical review officer (MRO) the evening of September 27 and on September 28 claimant left a voice mail for Wallace advising him of the results. Wallace did not tell claimant not to return to work, she did not return to the assignment, and she did not contact Sedona about additional assignments. Continued work was available from Sedona.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was not discharged but voluntarily left her employment without good cause attributable to the employer.

Iowa Code § 96.5-2-a provides:

An individual shall be disqualified for benefits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:

a. The individual shall be disqualified for benefits until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

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.

A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980). The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2) (amended 1998). Generally, when an individual mistakenly believes they are discharged from employment, but was not told so by the employer, and they discontinue reporting for work, the separation is considered a quit without good cause attributable to the employer.

Since claimant did not follow up with Wallace at Motion or Sedona, and her assumption of having been fired was erroneous, at least regarding Sedona, claimant's failure to continue reporting to work or request additional assignments was an abandonment of her job. Benefits are denied.

DECISION:

The November 16, 2007, reference 02, decision is affirmed. The claimant voluntarily left 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/pjs