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

DINESHA J ADAIR
Claimant

APPEAL NO. 11A-UI-09093-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

WESLEY RETIREMENT SERVICES INC
Employer

OC: 06/12/11
Claimant: Appellant (2/R)

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Dinesha Adair (claimant) appealed a representative's July 8, 2011 decision (reference 01) that concluded she was not eligible to receive unemployment insurance benefits because she had voluntarily quit employment with Wesley Retirement Services (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on August 29, 2011. The claimant participated personally. The employer participated by Debra Hampe, care coordinating supervisor. Heidi Vanden Hull observed the hearing.

ISSUE:

The issue is whether the claimant is eligible to receive unemployment insurance benefits after her separation from employment.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds that: The claimant was hired on April 5, 2010, as a full-time home health care aide. In April 2011, the claimant injured her hand, lost her transportation, and was not released to return to work. On June 16, 2011, the claimant was offered and accepted a job at Wells Fargo to start on June 20, 2011. The claimant notified the employer she was quitting. Continued work was available had the claimant not resigned.   On June 20, 2011, Wells Fargo rescinded the offer due to lack of call center volume.

REASONING AND CONCLUSIONS OF LAW:

For the following reasons, the administrative law judge concludes the claimant is eligible to receive unemployment insurance benefits after her separation from work.

Iowa Code section 96.5-1-a 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. But the individual shall not be disqualified if the department finds that:
>
> a. The individual left employment in good faith for the sole purpose of accepting other or better employment, which the individual did accept, and the individual performed services in the new employment. Benefits relating to wage credits earned with the employer that the individual has left shall be charged to the unemployment compensation fund. This paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

871 IAC 24.28(5) provides:

> Voluntary quit requalifications and previously adjudicated voluntary quit issues.
>
> (5) The claimant shall be eligible for benefits even though the claimant voluntarily quit if the claimant left for the sole purpose of accepting an offer of other or better employment, which the claimant did accept, and from which the claimant is separated, before or after having started the new employment.

The claimant left her position with the employer to work for another employer. When an employee quits work to take other employment, she is not disqualified from receiving unemployment insurance benefits. The claimant quit work to take other employment. She voluntarily quit without good cause attributable to the employer. Benefits are allowed because the claimant left to take other employment. The employer will not be charged.

The issue of whether the claimant is able and available to work due to her injury and lack of transportation is remanded for determination.

DECISION:

The representative's July 8, 2011 decision (reference 01) is reversed. The claimant voluntarily left work without good cause attributable to the employer. The claimant is not disqualified from receiving unemployment insurance benefits, because she quit to take other employment. The employer will not be charged. The issue of able and available is remanded for determination.

_____
Beth A. Scheetz
Administrative Law Judge

_____
Decision Dated and Mailed

bas/kjw