

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MAJA TOSUNBEGOVIC
Claimant

APPEAL NO. 06A-UI-10842-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

WELLS FARGO BANK
Employer

OC: 10/08/06 R: 02
Claimant: Appellant (1)

Section 96.5-1 - Voluntary Quit
Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Maja Tosunbegovic (claimant) appealed a representative's November 6, 2006 decision (reference 02) that concluded she was not eligible to receive unemployment insurance benefits because she had voluntarily quit employment with Wells Fargo Bank (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on November 28, 2006. The claimant participated personally. The employer participated by Jacob Galloway, Home Equity Production Supervisor.

ISSUE:

The issue is whether the claimant voluntarily quit work without good cause attributable to the employer and whether the claimant is available for work.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on August 14, 2003, as a full-time processor. The claimant planned to become a full-time student in October 2006, and informed the employer of her change in status. She requested help in finding a part-time position. The employer helped the claimant look for a part-time position within the department but none was available. October 6, 2006, was the claimant's last day of work. Continued work was available had the claimant not resigned.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant voluntarily quit work without good cause attributable to the employer.

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(26) 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:

- (26) The claimant left to go to school.

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's intent to leave employment was evidenced by her words and actions. She told the employer that she was going to become a full-time student. When a claimant quits work to return to school the leaving is without good cause attributable to the employer. The claimant quit work to return to school. Her leaving is without good cause attributable to the employer. The claimant voluntarily quit without good cause attributable to the employer. Benefits are denied.

For the following reasons the administrative law judge concludes the claimant is not available for work.

871 IAC 24.23(5) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

- (5) Full-time students devoting the major portion of their time and efforts to their studies are deemed to have no reasonable expectancy of securing employment except if the students are available to the same degree and to the same extent as they accrued wage credits they will meet the eligibility requirements of the law.

When an employee is a full-time student she is considered to be unavailable for work. The claimant was a full-time student. She is considered to be unavailable for work after October 6, 2006. The claimant is disqualified from receiving unemployment insurance benefits beginning October 6, 2006, due to her unavailability for work.

DECISION:

The representative's November 6, 2006 decision (reference 02) is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until she has worked in and has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. In addition, the claimant is disqualified from receiving unemployment insurance benefits beginning October 6, 2006, due to her unavailability for work.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/pjs