

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

KATHY J BENES
Claimant

**LA LEASING INC
SEDONA GROUP**
Employer

APPEAL 17A-UI-12097-DL-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 10/1/17
Claimant: Respondent (4)

Iowa Code § 96.5(1)a – Voluntary Quitting – Other Employment

STATEMENT OF THE CASE:

The employer filed an appeal from the November 13, 2017, (reference 01) unemployment insurance decision that allowed benefits based upon voluntarily quitting the employment. The parties were properly notified about the hearing. A telephone hearing was held on December 18, 2017. Claimant participated. Employer participated through risk administrative assistant Emilia Leeney and area manager Joe Vermeulen. Employer's Exhibit 1 was received.

ISSUE:

Did claimant voluntarily quit the employment with good cause attributable to employer?
If the separation would be disqualifying, did claimant quit to accept other employment?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed on a day-to-day basis working part-time hour as a temporary processor assigned at Nordstrom Distribution Center on August 26, 2017, and was separated from the assignment on September 26, 2017. She did not check in for another assignment but left to take other work with cleaning company ABM where she worked through December 13, 2017.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left the employment to accept employment elsewhere.

Iowa Code section 96.5(1)a provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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.

Iowa Admin. Code r. 871-24.28 provides:

Voluntary quit requalifications and previously adjudicated voluntary quit issues.

24.28(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 employment does not have to be covered employment and does not include self-employment.

Iowa Admin. Code r. 871-23.43 provides:

Charging of benefits to employer accounts.

23.43(5) *Sole purpose.* 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. No charge shall accrue to the account of the former voluntarily quit employer.

Even though the separation was without good cause attributable to the employer and would, standing alone, disqualify the claimant from receiving benefits, the claimant did leave in order to accept other employment and did perform services for the subsequent employer. Accordingly, benefits are allowed and the account of the employer shall not be charged.

DECISION:

The November 13, 2017, (reference 01) unemployment insurance decision is modified in favor of the appellant. The claimant voluntarily left the employment in order to accept other employment. Benefits are allowed, provided the claimant is otherwise eligible. The account of this employer (account number 237958) shall not be charged.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/rvs