

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

FAITH ANDERSON
Claimant

APPEAL NO. 11A-UI-02288-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

FOUNTAIN WEST HEALTH CENTER INC
Employer

OC: 05-09-10
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the February 18, 2011, reference 02, decision that denied benefits. After due notice was issued, a telephone hearing was held before Administrative Law Judge Julie Elder on March 22, 2011. The claimant participated in the hearing. Stacey Hemmingway, human resources manager, participated in the hearing on behalf of the employer. Employer's Exhibits One through Nine were admitted into evidence.

ISSUE:

The issue is whether the claimant voluntarily left her employment with good cause attributable to the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time LPN for Fountain West Health Center from September 28, 2007 to July 13, 2010. She voluntarily quit due to lack of childcare, but her last day of work was May 12, 2010. The claimant stopped working because of what she believed were problems due to her pregnancy, a non-work-related medical condition. She returned to work May 14, 2010, with a lifting restriction of 20 pounds. The employer took the claimant off work from May 15, 2010 through May 17, 2010, because it could not accommodate her non-work-related restrictions. The claimant contacted the DON to find out whether the employer was going to accommodate her restrictions and the DON eventually told the claimant her restrictions could not be accommodated at that time. The claimant moved from the Des Moines, Iowa, area to Boone, Iowa, May 25, 2010. She filed a civil rights complaint against the employer because the employer previously accommodated a 25-pound lifting restriction when she was pregnant with her other child. On June 10, 2010, the employer called the claimant to return to work on June 23, 2010. The claimant said she could not return on that date due to lack of childcare but she could return to work on June 25, 2010. There was a settlement on June 21, 2010, and the claimant received back pay in the amount of \$2,660.00 for the dates May 14, 2010 through June 10, 2010. The claimant was unable to work June 25, 2010, due to a lack of childcare. She then advised the employer she could not work June 26 and 27, 2010, but could return June 30, 2010. The claimant called the employer June 29, 2010, and said she could not work

on June 30, 2010, because she still had no childcare. She did not work July 1 and 2, 2010, due to transportation problems. The employer was unable to contact the claimant after that date. The claimant was a no-call, no-show until July 13, 2010, when the employer sent her a letter advising her that she was considered to have voluntarily quit her job.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left her employment 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.

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. 871 IAC 24.25. Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3),(4). Leaving because of dissatisfaction with the work environment is not good cause. 871 IAC 24.25(1). The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code section 96.6-2. The claimant quit her employment with the employer due to lack of childcare and indicated her intention to quit her job by failing to return to work or contact the employer. The law presumes it is a quit without good cause attributable to the employer when an employee leaves due to lack of childcare. 871 IAC 24.25(17). The claimant has not demonstrated that her leaving was for good cause attributable to the employer as that term is defined by Iowa law. Therefore, benefits are denied.

DECISION:

The February 18, 2011, reference 02, decision is affirmed. The claimant voluntarily left her 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.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/kjw