

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JEANNIE LUSSMAN
Claimant

APPEAL NO. 09A-UI-03233-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

CARE INITIATIVES
Employer

**Original Claim: 01-11-09
Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Leaving
871 IAC 24.25(2) – Voluntary Quit to Move

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the February 24, 2009, reference 03, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on March 25, 2009. The claimant participated in the hearing until her phone died after both parties testified and were waiting for another witness to arrive to answer questions that arose during the hearing. The claimant sent a fax at 1:04 p.m. stating she could not use her phone and the decision should be made on the information provided to that point. Consequently, the other witness was not called or sworn. Wilma Frey, Administrator, and Josh Burrows, Employer Attorney, participated in the hearing on behalf of the employer.

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 CNA for Care Initiatives from July 14, 2008 to October 19, 2008. The employer called the claimant October 19, 2008, and said there was going to be an across-the-board reduction in hours because the census was low. The claimant had a conversation with Administrator Wilma Frey around October 19, 2008, and stated she could not work anymore because she was experiencing too many personal problems and consequently she was leaving the state to be with her family in Montana. Ms. Frey indicated she understood and advised the claimant to call her if or when she returned. The claimant went to Montana and decided to try to find a job there until she returned to Iowa the first week of March 2009. She did not contact the employer when she returned.

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.

871 IAC 24.25(2) 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:

(2) The claimant moved to a different locality.

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). Although the employer was planning to reduce employees' hours for a short period of time until the census rebounded, the claimant said she could not work anymore and was planning to move to Montana because of personal problems and the illness of her mother. While the claimant's decision to quit to move to another area was based upon good personal reasons, it was not a good-cause reason attributable to the employer for leaving. Therefore benefits must be denied.

DECISION:

The February 24, 2009, reference 03, 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