

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MELISSA N GRAWE
Claimant

BUTTONS N BOWS INC
Employer

APPEAL 16A-UI-05480-NM-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 04/17/16
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant filed an appeal from the May 6, 2016 (reference 01) unemployment insurance decision that denied benefits based upon her voluntary quit. The parties were properly notified of the hearing. A telephone hearing was held on May 27, 2016. The claimant, Melissa Grawe, participated and testified. The employer, Buttons 'N' Bows, Inc., participated through director Mary Ronnenderg.

ISSUE:

Did claimant voluntarily quit the employment with good cause attributable to employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full time as an associate teacher from December 22, 2015 until this employment ended on April 12, 2016, when she voluntary quit.

On March 28, 2016, claimant notified Ronnenderg that she was giving her two-weeks' notice. Claimant told Ronnenderg that the commute to work was too long and she had found another job closer to home. Just prior to resigning, claimant submitted an application to a business close to her home. Claimant received a call from the manager of the business who asked her to come in to fill out paperwork for a criminal background check. Claimant went in, spoke to the manager, and filled out the requested paperwork. The manager did not offer claimant the position but when claimant asked if she could count on the job, the manager responded yes. Claimant submitted her resignation to the employer the next day, before she was officially offered a new position. Claimant was ultimately not hired for the new position. Claimant did not approach the employer about retaining her position, as a replacement had already been hired. The employer testified, had claimant not resigned that work would have continued to be available to her.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant's separation from the employment was without good cause attributable to the employer.

Iowa Code § 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.

Iowa Admin. Code r. 871-24.25(3) and (30) 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 § 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 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:

(3) The claimant left to seek other employment but did not secure employment.

(30) The claimant left due to the commuting distance to the job; however, the claimant was aware of the distance when hired.

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). "Good cause" for leaving employment must be that which is reasonable to the average person, not the overly sensitive individual or the claimant in particular. *Uniweld Products v. Indus. Relations Comm'n*, 277 So.2d 827 (Fla. Dist. Ct. App. 1973). 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).

In the present case, claimant voluntarily resigned her employment because she did not like to distance of her commute and believed she could secure other employment closer to home. Claimant was going through to hiring process with another business and believed she would be hired but resigned her current position prior to being offered a new job. Claimant ultimately was not hired for the position. While claimant's leaving may have been based upon good personal reasons, it was not for a good cause reason attributable to the employer according to Iowa law. Benefits are denied.

DECISION:

The May 6, 2016 (reference 01) unemployment insurance 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.

Nicole Merrill
Administrative Law Judge

Decision Dated and Mailed

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