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

DELISA M WARE
Claimant

APPEAL NO: 13A-UI-07756-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

A & N OF RIVER CITY INC
Employer

OC: 06/09/13
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit
871 IAC 24.25(2) – Move to a New Locality
871 IAC 24.25(35) – Health Issue

STATEMENT OF THE CASE:

The claimant appealed a department decision dated June 26, 201,3 reference 01, that held she voluntarily quit employment without good cause on May 24, 2013, and benefits are denied. A telephone hearing was held on August 7, 2013. The claimant participated. Mae Miles, Store Manager, participated for the employer.

ISSUE:

The issue is whether the claimant voluntarily quit with good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge having heard the witness testimony and having considered the evidence in the record finds: The claimant worked for the employer from May 9, 2002 to May 24, 2013. The claimant gave notice to the store manager in April 2013 not to put her on the May schedule because she was quitting to relocate to where her daughter lived near Cedar Rapids, Iowa. Claimant and the manager reviewed the May schedule and she was put on a weekly basis until she last worked on May 24.

Claimant has suffered from a health condition for several years. Her doctor suggested she quit her job. The employer has worked with claimant when she has suffered health episodes that have kept her from work, but she understood she otherwise had to work as scheduled. Claimant did not provide the employer with a doctor recommendation she should quit the job.

REASONING AND CONCLUSIONS OF LAW:

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) and (35) provide:

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.

871 IAC 24.25(35) provides:

(35) The claimant left because of illness or injury which was not caused or aggravated by the employment or pregnancy and failed to:

(a) Obtain the advice of a licensed and practicing physician;

(b) Obtain certification of release for work from a licensed and practicing physician;

(c) Return to the employer and offer services upon recovery and certification for work by a licensed and practicing physician; or

(d) Fully recover so that the claimant could perform all of the duties of the job.

The administrative law judge concludes that the claimant voluntarily quit employment without good cause attributable to the employer on May 24, 2013 to move to a different locality.

While claimant's health condition was a consideration for quitting, she did not provide the employer with a doctor recommendation that she should do so. She told her manager she was quitting so she could move to her daughter's location.

DECISION:

The department decision dated June 26, 2013, reference 01, is affirmed. The claimant voluntarily quit without good cause attributable to the employer on May 24, 2013. Benefits are denied until the claimant has worked in and is paid wages for insured work, equal to ten times her weekly benefit amount, provided the claimant is otherwise eligible.

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Randy L. Stephenson
Administrative Law Judge

_____
Decision Dated and Mailed

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