

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CHARLENE SIPE
Claimant

APPEAL NO. 10A-UI-08958-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

EMPLOYER'S SERVICE BUREAU INC
Employer

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

Iowa Code § 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Charlene Sipe (claimant) appealed an unemployment insurance decision dated June 22, 2010, reference 01, which held that she was not eligible for unemployment insurance benefits because she voluntarily quit her employment with Employer's Service Bureau, Inc. (employer) without good cause attributable to the employer. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on September 14, 2010. The claimant participated in the hearing. The employer participated through Joe Rausenberger, Superintendent. Claimant's Exhibit A was admitted into evidence. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

The issue is whether the claimant's voluntary separation from employment qualifies her to receive unemployment insurance benefits.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds that: The claimant was employed as contracted laborer assigned to Nestle Purina from October 17, 2008 through March 4, 2010. She was laid off due to lack of work but called back at some point after March 19, 2010. The claimant did not return to work because she was under house arrest from March 19, 2010 through May 24, 2010.

The claimant said the employer could have signed paperwork that would have allowed her to work but the employer said it was not obligated to employ someone who is incarcerated or under house arrest. The employer considered the claimant to have voluntarily quit, since she did not return to work.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant's voluntary separation from employment qualifies her to receive unemployment insurance benefits. She is not qualified to receive unemployment

insurance benefits if she voluntarily quit without good cause attributable to the employer. Iowa Code § 96.5-1.

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980) and Peck v. Employment Appeal Bd., 492 N.W.2d 438 (Iowa Ct. App. 1992). The claimant demonstrated her intent to quit and acted to carry it out by failing to return to work after March 19, 2010, due to being under house arrest. She contends she could have returned to work if the employer had completed paperwork. However, the reason she did not return to work was due to her house arrest and not attributable to the employer.

It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify her. Iowa Code § 96.6-2. She has not satisfied that burden and benefits are denied.

DECISION:

The unemployment insurance decision dated June 22, 2010, reference 01, is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until she has worked in and has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/kjw