

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TAYLOR L HUEMOELLER
Claimant

APPEAL NO: 11A-UI-13957-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

MID-STEP SERVICES INC
Employer

**OC: 02/20/11
Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Quit
871 IAC 24.25(18) – Dissatisfaction with Work Shift

STATEMENT OF THE CASE:

The claimant appealed a department decision dated October 18, 2011, reference 04, that held she voluntarily quit employment without good cause on May 5, 2011, and benefits are denied. A telephone hearing was held on November 16, 2011. The claimant did not participate. Jan Hackett, HR Representative, participated for the employer. Employer Exhibit One was received as evidence.

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 testimony of the witnesses, and having considered the evidence in the record, finds: The claimant was hired as a full-time residential living assistant on March 2, 2011 for the second shift. She reported to the employer she suffered a non-job-related injury when she came to work on April 28 wearing a boot and supported by crutches. Given the physical demands of the job, the claimant could not perform her job at that time.

The employer instructed claimant to come back to work when she was able to do the job. When she returned to work with restrictions on May 5, claimant requested a first shift position. The employer had no first shift job available, and claimant chose not to pursue further work.

Claimant was not available when called for the hearing at the number she provided.

REASONING AND CONCLUSIONS OF LAW:

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.

871 IAC 24.25(18) 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:

(18) The claimant left because of a dislike of the shift worked.

The administrative law judge concludes that the claimant voluntarily quit employment without good cause attributable to the employer on May 5, 2011 due to a job shift issue.

While claimant's employment separation on April 28 was due to a non-work-related issue, her return for work separation on May 5 was due to her decision to request first shift work that was not available. Claimant was hired to work second shift. The employer is not obligated to provide work other than that shift. Claimant's employment separation is a voluntary quit on May 5 that is not attributable to the employer.

DECISION:

The department decision dated October 18, 2011, reference 04, is affirmed. The claimant voluntarily quit without good cause attributable to the employer on May 5, 2011. 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.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/pjs