

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

AMY J KEBER
Claimant

APPEAL NO: 13A-UI-07271-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

THE UNIVERSITY OF IOWA
Employer

OC: 05/19/13
Claimant: Appellant (4-R)

Section 96.5-1-a – Voluntary Quit/Other or Better Employment
Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

The claimant appealed a department decision dated June 11, 2013, reference 01, that held she voluntarily quit employment without good cause attributable to the employer on May 17, 2013, and benefits are denied. A telephone hearing was held on July 24, 2013. The claimant participated. Mary Eggenburg, Benefits Specialist, and Brenda Carmody, 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 witness testimony and having considered the evidence in the record, finds: The claimant last worked as a part-time pharmacy technician job for the employer on May 17, 2013. The claimant submitted her resignation letter to the employer on May 20. The employer accepted claimant's resignation.

Claimant accepted full-time employment at NCS Pearson Inc. (ER#127976) on May 5, and began work as technical support on May 6. She had previously worked this employer, and she considered it a better job due to compatible work hours with her child care, and more work hours. She continued to work until a lay-off on June 17. She is waiting a recall to work in August.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5-1-a 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. But the individual shall not be disqualified if the department finds that:

a. The individual left employment in good faith for the sole purpose of accepting other or better employment, which the individual did accept, and the individual performed services in the new employment. Benefits relating to wage credits earned with the employer that the individual has left shall be charged to the unemployment compensation fund. This paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

The administrative law judge concludes that the claimant left employment with good cause due to leaving for other/better employment effective May 17, 2013. The employer in this matter is relieved of liability for the claim.

The measure of better employment is what the claimant understood to be regarding the improved work hours with child care compatibility. There is no issue she left for other employment regardless of what she offered in her resignation letter, as she accepted the job at NCS Pearson and began work on May 5.

Iowa Code section 96.4-3 provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in section 96.19, subsection 38, paragraph "b", unnumbered paragraph 1, or temporarily unemployed as defined in section 96.19, subsection 38, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

The administrative law judge further concludes the issue of whether claimant meets the availability requirements of the law during the period from her May 19, 2013 claim date to June 17, 2013 is remanded to claims for a decision.

Claimant is eligible for benefits by reason of her employment separation on May 17, 2013, but she began working substantial hours for her new employer that put at issue whether she meets the availability requirements of the law.

DECISION:

The department decision dated June 11, 2013, reference 01, is modified in favor of claimant. The claimant voluntarily left for other/better employment on May 17, 2013. Benefits are allowed, provided the claimant is otherwise eligible. The employer is not liable for benefits paid to the claimant. The issue of whether claimant meets the availability requirements of the law during the period from her claim effective date to June 17 lay-off is remanded.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/pjs