

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ELIZABETH D HOY**  
Claimant

**APPEAL NO. 09A-UI-06326-VST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**PELLA CORPORATION**  
Employer

**OC: 03/29/09**  
**Claimant: Appellant (2 R)**

Section 96.5-1 – Voluntary Quit

**STATEMENT OF THE CASE:**

Claimant filed an appeal from a decision of a representative dated April 14, 2009, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on May 19, 2009. Claimant participated. Claimant was represented by Valerie Cramer, attorney at law. Employer notified the Unemployment Insurance Appeals Bureau that it would not contest the claimant and would not participate in the hearing. The record consists of the testimony of Elizabeth Hoy and Claimant's Exhibits A and B.

**ISSUE:**

Whether the claimant voluntarily quit her employment without good cause attributable to the employer.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony of the witness and having considered all of the evidence in the record, makes the following findings of fact:

The claimant had worked full time for the employer since May 2001. In December 2008 the employer announced that it had too many employees given the normally slow season for production and the state of the economy. The claimant was led to believe that there would layoffs coming up and she was concerned about how she would be affected were a layoff to occur.

The employer then offered some of the employees a variety of separation packages. The claimant accepted a program called "Voluntary Separation Incentive Program (termination). This program called for an incentive payment equal to one week's pay for every year of service with a minimum of four weeks. The claimant could also remain on the employer's insurance plan at the employee rate for the first three months of COBRA, followed then at the COBRA rate under COBRA provisions. The claimant is no longer considered to be an employee of Pella.

**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.

A quit is a separation initiated by the employee. 871 IAC 24.1(113)(b). In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 698, 612 (Iowa 1980) and Peck v. EAB, 492 N.W.2d 438 (Iowa App. 1992). 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. See 871 IAC 24.25.

The evidence in this case established that the claimant did not voluntarily quit her employment but rather elected a termination package offered by the employer in lieu of termination or layoff. She did receive payments from the employer under this termination package and the receipt of those payments may mean that there will be a deduction from the claimant's unemployment insurance benefits.

**DECISION:**

The decision of the representative dated April 14, 2009, reference 01, is reversed. Unemployment insurance benefits are allowed, provided claimant is otherwise eligible. This case is remanded back to the unemployment insurance service division for a determination of whether the employee's severance package constitutes payment deductible from unemployment insurance benefits.

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Vicki L. Seeck  
Administrative Law Judge

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Decision Dated and Mailed

vls/pjs