

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SUSIE M FRANK

Claimant

APPEAL NO. 09A-UI-11775-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

PELLA CORPORATION

Employer

OC: 02/01/09

Claimant: Respondent (2)

Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Pella Corporation filed an appeal from a representative's decision dated August 7, 2009, reference 01, which held that Susie Frank was no longer temporarily unemployed and had to start making job contacts. After due notice was issued, a hearing was held by telephone on September 1, 2009. Ms. Frank participated personally. The employer participated by Jennifer Grandgenett, Human Resources Representative.

ISSUE:

At issue in this matter is whether Ms. Frank was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

Having heard the testimony and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Frank began working for Pella Corporation on September 15, 1997 and worked full time in assembly. On or about January 29, 2009, she began a voluntary layoff. She was guaranteed that she would be recalled on or before September 1, 2009. She was told that a failure to return when recalled would be considered a resignation.

On July 20, Ms. Frank was contacted and recalled to work to the same job with the same pay and benefits. She was to return on July 27 or within two weeks following that date. She declined to return because she was starting a business with a friend. She did not notify the employer of any work-related problems that prevented her return. Ms. Frank did not claim job insurance benefits after the week ending August 1, 2009.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes that Ms. Frank quit her job when she failed to return to work when recalled. An individual who leaves employment voluntarily is disqualified from receiving job insurance benefits unless the quit was for good cause attributable to the employer. Iowa Code section 96.5(1). The evidence of record does not establish any good cause

attributable to the employer for Ms. Frank's quit. She did not come back primarily because she was starting a business with a friend. An individual who leaves employment to enter self-employment is presumed to have quit without good cause attributable to the employer. See 871 IAC 24.25(19). For the above reasons, the separation was a disqualifying event.

Ms. Frank has not received job insurance benefits for any period after recall. She had until August 7 to return to work and last claimed benefits for the week ending August 1, 2009. As such, there is no resulting overpayment.

DECISION:

The representative's decision dated August 7, 2009, reference 01, is hereby reversed. Ms. Frank quit her employment with Pella Corporation for no good cause attributable to the employer. Benefits are withheld until she has worked in and been paid wages for insured work equal to ten times her weekly job insurance benefit amount, provided she is otherwise eligible.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/css