

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

NICOLE BROWN
Claimant

APPEAL NO: 12A-UI-10821-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**PALMER COMPANIES INC
PALMER CONSULTING**
Employer

**OC: 04/01/12
Claimant: Appellant (1)**

Iowa Code § 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Nicole Brown (claimant) appealed an unemployment insurance decision dated September 4, 2012, reference 03, which held that she was not eligible for unemployment insurance benefits because she voluntarily quit her employment with Palmer Companies, 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 October 2, 2012. The claimant participated in the hearing. The employer participated through Eric Sonksen, Recruiting Consultant. 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 considered all of the evidence in the record, finds that: The employer is an employment agency and the claimant previously worked for the employer from October 18, 2004 to October 22, 2004. She was most recently hired for a clerical, temp-to-hire position at Wells Fargo Home Mortgage on July 23, 2012. The claimant advised the employer on July 27, 2012 that the job was too physically demanding because she had to lift too many boxes. She was willing to give a two-week notice and the employer contacted its client. Wells Fargo notified the employer on July 30, 2012 that the claimant did not need to return since she had only worked one week and Recruiting Consultant Eric Sonksen notified the claimant on July 30, 2012 that she did not need to return.

Mr. Sonksen called the claimant on both August 1, 2012 and August 2, 2012 to talk to her about two different job openings and whether it was okay for him to send out her résumé. He believes the claimant got back to him indicating that it was okay but he does not have any documentation confirming that. The employer called the claimant again on August 7, 2012 but she did not

answer and did not return the call. There was no further contact from the claimant so the employer called her for an update on August 17, 2012 but was only able to leave a message.

The claimant testified that she had no phone service for a period of time in August 2012 but could not provide the exact dates. She said nothing prevented her from going to the worksite to request additional work but failed to do so. The claimant sent the employer an email on August 21, 2012 stating that she was not currently looking for work. However, she continued to file her weekly claims for unemployment benefits at that same time, stating that she was able and available for work and that she had looked for work. The claimant did reach out to the employer looking for a position in the first part of September 2012.

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 quitting her assignment and not accepting additional assignments. She quit a temp-to-hire assignment because she said the work was too physically demanding. The claimant does not have any medical restrictions.

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 September 4, 2012, reference 03, 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/css