

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JAMIE L LARA
Claimant

APPEAL NO. 13A-UI-09300-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

LESSITER PUBLICATIONS INC
Employer

OC: 05/19/13
Claimant: Appellant (1)

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Jamie Lara filed a timely appeal from a representative's decision dated August 9, 2013, reference 06, which denied unemployment insurance benefits finding that she quit employment under disqualifying conditions. After due notice was provided, a telephone hearing was held on September 17, 2013. The claimant participated. The employer participated by Mr. Michael Ellis, Publisher.

ISSUE:

At issue is whether the claimant left employment with good cause attributable to the employer.

FINDINGS OF FACT:

Having considered the evidence in the record, the administrative law judge finds: Ms. Jamie Lara was employed by the captioned publication company from June 3, 2013 until July 11, 2013 when she quit employment voluntarily. Ms. Lara was hired to work as a full-time sales representative selling ad space to manufacturers to be placed in the employer's publications. Ms. Lara was paid a salary of \$30,000.00 per year plus commissions. Her immediate supervisor was Mr. Michael Ellis.

Ms. Lara left her employment with Lessiter Publications, Inc. on July 11, 2013 due to general dissatisfaction with a number of aspects of her employment. The claimant's dissatisfactions included her belief that her pay for commissions in the future might not be as great as anticipated, the removal of a big account and a substitution of other accounts to replace it by the employer and the number of sales meetings, trade shows and company meetings that she would be required to attend yearly. Ms. Lara decided to leave her employment on July 11, 2013 primarily because she did not wish to travel out of town the following day for a company meeting. Ms. Lara was informed at the time of hire that a number of trade shows and sales meetings would be required each year, however, the claimant did not anticipate that the company itself would have a meeting that she would be expected to attend.

Ms. Lara brought a number of these concerns to the attention of her supervisor, Mr. Ellis. Mr. Ellis reassured the claimant that her performance was satisfactory and explained that the

commission basis, dates for commission payments and the requirement of travel were covered in the written agreement of hire between the parties. Ms. Lara did not indicate that she would be quitting her job if any areas of dissatisfaction were not changed by the employer. Ms. Lara quit unexpectedly by telephone call on July 11, 2013. Due to the limited period of time that she had been employed, the claimant had not yet accrued commissions that were payable to her.

REASONING AND CONCLUSIONS OF LAW:

The question before the administrative law judge is whether the evidence in the record establishes that the claimant left employment with good cause attributable to the employer.

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.

871 IAC 24.26(23) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(23) The claimant left work because the type of work was misrepresented to such claimant at the time of acceptance of the work assignment.

871 IAC 24.25(33) 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 section 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 section 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:

(33) The claimant left because such claimant felt that the job performance was not to the satisfaction of the employer; provided, the employer had not requested the claimant to leave and continued work was available.

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code section 96.6(2). An individual who voluntarily leaves their employment must first give notice to the employer of the reasons for quitting in order to give the employer an opportunity to address or resolve the complaint. Cobb v. Employment Appeal Board, 506 N.W.2d 445 (Iowa 1993).

In this matter the evidence establishes that the employer's general expectations and the agreement regarding pay and commissions were covered in a written agreement between the parties in advance of Ms. Lara accepting her position with Lessiter Publications, Inc. The

claimant knew that she would be paid by commission and that the rate of commissions might vary with the amount of sales. The claimant was also aware that she would be required to travel from time to time in the performance of her duties as a direct sales representative for the company. The claimant had not been promised any specific list of clients, and when a potential large client was removed by the employer the employer substituted a number of other clients so that the claimant would have an opportunity to sell for sufficient commissions. The requirement that the claimant attend an annual meeting of the publisher was not unreasonable based upon the nature of the claimant's work and the necessity that she familiarize herself with the company and or its clients. The administrative law judge concludes that the claimant's primary reason for leaving her employment on July 11, 2013 was a desire not to travel and leave her family.

Although Ms. Lara brought a number of these dissatisfactions to the attention of Mr. Ellis, Ms. Lara did not indicate in any way that she was considering quitting employment if any of the areas of her dissatisfaction were not rectified.

Based upon the application of the facts to the law, the administrative law judge concludes that the claimant has not sustained her burden of proof in establishing that she left employment with good cause that was attributable to the employer. Unemployment insurance benefits are withheld.

DECISION:

The representative's decision dated August 9, 2013, reference 06, is affirmed. The claimant left employment without good cause attributable to the employer. Unemployment insurance benefits are withheld until the claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount and is otherwise eligible.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

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