

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CHRISTINA L DAUGHERTY
Claimant

APPEAL NO. 15A-UI-04783-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

O'REILLY AUTOMOTIVE INC
Employer

OC: 07/06/14
Claimant: Appellant (5)

Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Christina Daugherty filed a timely appeal from the April 14, 2015, reference 02, decision that disqualified her for benefits and that relieved the employer of liability for benefits, based on an Agency conclusion that the claimant had voluntarily quit without good cause attributable to the employer. After due notice was issued, a hearing was held on May 29, 2015. Ms. Daugherty participated. Tara Mosqueda represented the employer. The hearing in this matter was consolidated with the hearing in Appeal Number 15A-UI-04784-JTT. Exhibits One through Five were received into evidence. The administrative law judge took official notice of the Agency's administrative record of benefits disbursed to the claimant and wages reported by the claimant.

ISSUE:

Whether the claimant separated from the employment for a reason that disqualifies her for unemployment insurance benefits or that relieves the employer of liability for benefits.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant Christina Daugherty was employed by O'Reilly Automotive, Inc., on a full-time basis and from 2007 and last performed work for the employer on October 23 or 24, 2014. In June 2014, the claimant commenced working at the employer's Shenandoah store. Prior to that, the claimant had worked at the employer's Council Bluffs store. The claimant separated from the full-time employment in October 2014. The claimant needed to undergo a medical procedure due to Crohn's disease. That procedure was scheduled for October 25, 2014. Before the claimant went off work, she told her supervisor that she would not be returning to her employment at the Shenandoah store because she moving to Kansas City, Missouri. The claimant had recently married and her new spouse was in Kansas City. A doctor had not advised the claimant to leave her full-time employment in Shenandoah. The claimant told the supervisor that she wanted to go to on-call status so that she could remain in the payroll system while she sought a position at an O'Reilly store in the Kansas City area. The proposed switch to on-call status was not part of the employer's established procedure for transferring from one store to another. The Shenandoah supervisor declined to authorize on-call status and told the claimant that she would need to contact the district manager over the Kansas City area about a position in that area.

Though continued full-time work was available at the Shenandoah store, the claimant did not return to Shenandoah store.

During the second week of November 2014, the claimant relocated to Kansas City. When the claimant contacted the Kansas City district manager, that person advised there was not currently a position available for her. The district manager offered to facilitate placing the claimant on a leave of absence, but the claimant was not interested in a leave of absence. The employer's leave coordinator had sent a letter to the claimant in October and again in December regarding a possible leave of absence. The claimant received the first letter and told someone with O'Reilly that she was not interested in a leave of absence. The claimant did not get the letter mailed in December because it was sent to her Iowa address and she had relocated to Kansas City. The employer's leave coordinator sent the claimant another letter in March 2015. The claimant contacted the leave coordinator in response to that letter and reiterated that she was not interested in a leave of absence.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 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.

Iowa Admin. Code r. 871-24.25(2) 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 § 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 § 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:

(2) The claimant moved to a different locality.

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.

Though the claimant characterizes her separation as a mess created by the employer documentation, the weight of the evidence in the record establishes instead that the claimant voluntarily quit effective October 23 or 24, 2014, when she told the employer she was ending her full-time employment at the Shenandoah store because she was moving to Kansas City in November. The claimant had not gone through the appropriate steps to arrange a transfer prior to separating from her full-time employment at the Shenandoah store. The employer had no obligation to comply with the claimant's request to switch to an on-call status. The claimant's

separation from her full-time employment so that she could relocate to Kansas City was without good cause attributable to the employer. The claimant is disqualified for benefits until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. The employer's account shall not be charged for benefits.

DECISION:

The April 14, 2015, reference 02, decision is modified only to correct the date of separation. The claimant voluntarily quit the employment without good cause attributable to the employer. The quit was effective October 23 or 24, 2014. The claimant is disqualified for benefits until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. The employer's account shall not be charged.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/pjs