

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ROBIN L SHAW**

Claimant

**APPEAL NO: 13A-UI-14254-DT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**PER MAR SECURITY & RESEARCH CORP**

Employer

**OC: 11/10/13**

**Claimant: Appellant (2)**

Section 96.5-1 – Voluntary Leaving  
871 IAC 24.1(113)a – Layoff

**STATEMENT OF THE CASE:**

Robin L. Shaw (claimant) appealed a representative's December 17, 2013 decision (reference 01) that concluded she was not qualified to receive unemployment insurance benefits after a separation from employment with Per Mar Security & Research Corporation (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on January 22, 2014. The claimant participated in the hearing. Gretchen Goettig appeared on the employer's behalf. 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:**

Was there a disqualifying separation from employment either through a voluntary quit without good cause attributable to the employer or through a discharge for misconduct?

**FINDINGS OF FACT:**

The claimant started working for the employer on April 17, 2013. For all but about the first three or four days of her employment she worked full time as a security officer at the employer's East Dubuque, Illinois construction project site. Her last day of work was November 1, 2013. She did not continue working after that date because the construction project was completed and the business client no longer needed the employer's services.

The claimant and other security officers were being considered for placement on other accounts, but as of November 1 no arrangement had been made to place the claimant on any other account. She had previously been occasionally commuting from Charlotte, Iowa, where her boyfriend lived, about an hour and a half drive to Dubuque, and otherwise she had been staying with her mother in Dubuque. When the employer still had not found another account for her by November 11, she advised the operations manager that she was also living in Charlotte, so that in addition to being able to take work on accounts in the Dubuque area, she was available to take work on accounts in the Clinton, Iowa area. The employer asserted that this amounted to the claimant quitting by moving to another area.

**REASONING AND CONCLUSIONS OF LAW:**

A claimant is not eligible for unemployment insurance benefits if she quit the employment without good cause attributable to the employer or was discharged for work-connected misconduct. Iowa Code §§ 96.5-1; 96.5-2-a.

Rule 871 IAC 24.25 provides that, 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. A voluntary leaving of employment requires an intention to terminate the employment relationship and an action to carry out that intent. *Bartelt v. Employment Appeal Board*, 494 N.W.2d 684 (Iowa 1993); *Wills v. Employment Appeal Board*, 447 N.W.2d 137, 138 (Iowa 1989). The employer asserted that the claimant was not discharged but that she quit by making her residence in Charlotte more permanent. The administrative law judge concludes that the employer has failed to satisfy its burden that the claimant voluntarily quit. Iowa Code § 96.6-2

871 IAC 24.1(113)a provides:

Separations. All terminations of employment, generally classifiable as layoffs, quits, discharges, or other separations.

a. Layoffs. A layoff is a suspension from pay status (lasting or expected to last more than seven consecutive calendar days without pay) initiated by the employer without prejudice to the worker for such reasons as: lack of orders, model changeover, termination of seasonal or temporary employment, inventory-taking, introduction of laborsaving devices, plant breakdown, shortage of materials; including temporarily furloughed employees and employees placed on unpaid vacations.

The separation between the claimant and the employer was a layoff by the employer due to the lack of work for the business client, and the lack of any other work at other accounts immediately thereafter; the employer had no work it could provide to the claimant. The fact that the claimant subsequently was living more in the Charlotte area did not create the separation. As there was not a disqualifying separation, benefits are allowed if the claimant is otherwise eligible.

**DECISION:**

The representative's December 17, 2013 decision (reference 01) is reversed. The claimant was laid off from the employer as of November 1, 2013 due to a lack of work. Benefits are allowed, provided the claimant is otherwise eligible.

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Lynette A. F. Donner  
Administrative Law Judge

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Decision Dated and Mailed

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