

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

EVELYN L BUNNING
Claimant

APPEAL NO. 09A-UI-08256-VST

**ADMINISTRATIVE LAW JUDGE
DECISION**

MAINSTREAM LIVING INC
Employer

OC: 04/19/09
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated June 3, 2009, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on June 24, 2009. Claimant participated. Although the employer did provide a telephone number, there was no one available at the time the administrative law judge called. A message was left with the telephone number to call, but no one from the employer called while the hearing was ongoing.

ISSUE:

Whether the claimant voluntarily quit for good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witness and having considered all of the evidence in the record, makes the following findings of fact:

The claimant worked as a certified living technician for the employer. She was first employed on June 21, 2004. The claimant would go to the homes of disabled individuals and provide services such cleaning, cooking, laundry, and personal hygiene assistance.

The claimant quit her job on August 28, 2008. The reason that she quit her job was that her husband threatened to kill her, her children and her clients. The claimant felt she had no choice but to quit. She then went to a domestic abuse shelter in Florida. The claimant's husband did not work for the employer.

REASONING AND CONCLUSIONS OF LAW:

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 24.25(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 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:

(2) The claimant moved to a different locality.

A quit is a separation initiated by the employee. 871 IAC 24.1(113)(b). 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.

The evidence in this case established that the claimant quit her job because she feared for her life; her children's lives; and her client's lives. The threat came from her husband. She quit her job and moved to a domestic abuse shelter in Florida. The claimant had personal and very compelling reasons to quit her job and move from Iowa to Florida.

A claimant is disqualified from unemployment insurance benefits in a voluntary quit unless there is good cause attributable to the employer. When a claimant quits a job for personal reasons, often there is no good cause attributable to the employer. Iowa law does not allow benefits if a claimant quits a job to move to a different locality, even that move is necessary. In this case, the administrative law judge concludes that while the claimant quit her job under very difficult circumstances, good cause can still not be attributed to the employer. Benefits are denied.

DECISION:

The decision of the representative dated June 3, 2009, reference 01, is affirmed. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.

Vicki L. Seeck
Administrative Law Judge

Decision Dated and Mailed

vls/pjs