

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

HEIDI J APPEGATE

Claimant

APPEAL NO. 14A-UI-00459-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

LABOR READY MIDWEST INC

Employer

OC: 12/01/13

Claimant: Appellant (1)

Section 96.5-1 - Voluntary Quit

Section 96.5-1-c - Voluntary Quit for Care of Family Member

STATEMENT OF THE CASE:

Heidi Applegate (claimant) appealed a representative's January 3, 2014, decision (reference 02) that concluded she was not eligible to receive unemployment insurance benefits because she voluntarily quit work with Labor Ready Midwest (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for February 5, 2014. The claimant participated personally. The employer participated by Ashley Malloy, Customer Service Representative. The employer offered and Exhibit One was received into evidence.

ISSUE:

The issue is whether the claimant was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on July 22, 2013, as a part-time production worker. The claimant worked through August 8, 2013. She sent a text to the employer saying she could not make it to work after that. Later she said she would not return to work as she was going to Missouri to care for her brother's children because her sister-in-law was expecting and in the hospital. When the claimant arrived in Missouri, the claimant's brother offered her \$25.00 per day to care for the children. The claimant is still in Missouri caring for the children and self-employed. Continued work was available had the claimant not resigned.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant voluntarily quit work without 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.

Iowa Code section 96.5-1-c 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. But the individual shall not be disqualified if the department finds that:

c. The individual left employment for the necessary and sole purpose of taking care of a member of the individual's immediate family who was then injured or ill, and if after said member of the family sufficiently recovered, the individual immediately returned to and offered the individual's services to the individual's employer, provided, however, that during such period the individual did not accept any other employment.

871 IAC 24.28(8) provides:

Voluntary quit requalifications and previously adjudicated voluntary quit issues.

(8) The claimant voluntarily left employment. However, there shall be no disqualification under Iowa Code section 96.5(1) if a decision on this same separation has been made on a prior claim by the appeal board and such decision has become final.

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 voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980). The claimant's intention to voluntarily leave work was evidenced by her words and actions. She told the employer that she was leaving and quit work. The claimant left work to take care of her brother's children who needed childcare. The claimant's brother's children do not meet the definition of immediate family.

When an employee quits work because she leaves town, her leaving is without good cause attributable to the employer. The claimant left work because she was moved to a different locality to care for her niece and nephew. Her leaving was without good cause attributable to the employer. The claimant voluntarily quit without good cause attributable to the employer. Benefits are denied.

DECISION:

The representative's January 3, 2014, decision (reference 02) is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times the claimant's weekly benefit amount, provided the claimant is otherwise eligible.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/pjs