

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ANDREA C MCKERN
Claimant

APPEAL NO. 12A-UI-12134-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

IOWA STATE UNIVERSITY
Employer

OC: 09/02/12
Claimant: Respondent (1)

Section 96.5(1) – Quit

STATEMENT OF THE CASE:

The employer, Iowa State University (ISU), filed an appeal from a decision dated October 2, 2012, reference 01. The decision allowed benefits to the claimant, Andrea McKern. After due notice was issued a hearing was held by telephone conference call on October 31, 2012. The claimant participated on her own behalf. The employer participated by Human Resources Consultant Tasha Barton.

ISSUE:

The issue is whether the claimant quit work with good cause attributable to the employer.

FINDINGS OF FACT:

Andrea McKern began employment with ISU on January 27, 2012 as a part-time lab technician. At the time of hire the understanding was that she would work through the end of the spring semester. She had another part-time job for the Iowa Department of Agriculture (IDA) at the same time.

On May 17, 2012, Dr. Kathleen Delate contacted Ms. McKern by e-mail to ask if she would be interested in working through the summer. The claimant usually worked full-time during the summer for the IDA and told the employer she would like to have a week to find out if that job was going to be offered to her this year. Dr. Delate gave her until May 21, 2012.

Ms. McKern received an e-mail from the employer early in the morning on May 21, 2012, stating that three new lab employees had been hired and the claimant should turn in her keys.

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 24.26(22) 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:

(22) The claimant was hired for a specific period of time and completed the contract of hire by working until this specific period of time had lapsed. However, this subrule shall not apply to substitute school employees who are subject to the provisions of Iowa Code section 96.4(5) which denies benefits that are based on service in an educational institution when the individual declines or refuses to accept a new contract or reasonable assurance of continued employment status. Under this circumstance, the substitute school employees shall be considered to have voluntarily quit employment.

The claimant was hired for the spring semester at ISU with no specific guarantees that work would be available after that time. This is supported by the fact Dr. Delate contacted the claimant in May to ask if she would be willing to extend her work through the summer.

Ms. McKern would have been willing to consider extending her time but asked for, and was given, permission to wait to see if her usual full-time summer job would be available. The employer granted the request but then reneged by hiring others to replace the claimant before she was able to accept or reject the summer job offer with ISU.

The administrative law judge therefore considers Ms. McKern was hired only for the spring semester and completed the term of the employment as required. Under the provisions of the above Administrative Code section, this is not a voluntary quit and disqualification may not be imposed.

DECISION:

The representative's decision of October 2, 2012, reference 01, is affirmed. Andrea McKern is qualified for benefits, provided she is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/pjs