

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

VERNITA A HUMPHRIES
Claimant

CROTHALL HEALTHCARE INC
Employer

APPEAL 16A-UI-05055-JCT
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 04/10/16
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant filed an appeal from the April 29, 2016, (reference 01) unemployment insurance decision that denied benefits based upon separation. The parties were properly notified about the hearing. A telephone hearing was held on May 13, 2016. The claimant participated personally. Department exhibit D-1 was admitted. The administrative law judge took official notice of the administrative record, including fact-finding documents. 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:

Did the claimant voluntarily quit the employment with good cause attributable to the employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed full-time as a housekeeper and was separated from employment on February 19, 2016, when she resigned. Continuing work was available.

The claimant recently moved from Chicago, and does not have family in the area to help support her, or provide childcare when she is working. The claimant began employment in April 2015, and was not eligible for an FMLA leave of absence, but has seven children, two of which have serious medical conditions. While employed for this employer, one of her children was brought to the emergency room while the claimant was working, due to a sickle cell crisis. In addition, the claimant's oldest child is schizophrenic and discontinued taking his medication while the claimant was at work, which caused two of her other children to be hospitalized due to the son's actions, as well as for law enforcement to be called.

The claimant made her best efforts to balance her responsibilities at home, and work, but was on a final warning for attendance at the time of her separation. Due to the ongoing concerns with her family, and inability to secure FMLA due to her short duration of employment, the claimant voluntarily quit the employment to get her family stabilized.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant's separation from the employment was without good cause attributable to the employer.

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(23), (20) and (17) 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:

(23) The claimant left voluntarily due to family responsibilities or serious family needs.

(20) The claimant left for compelling personal reasons; however, the period of absence exceeded ten working days.

(17) The claimant left because of lack of child care.

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). 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).

In this case, the claimant quit after being ineligible for a leave of absence, so that she could tend to her children, two of which were hospitalized, and two others which have serious medical conditions. The claimant did not have family in the area to help her, and her job was in jeopardy due to attendance occurrences related to her missing work for her children. The administrative law judge is sympathetic to the claimant's responsibilities at home, especially with limited support. However, based on the evidence presented, the claimant's leaving the employment may have been based upon good personal reasons, but it was not for a good-cause reason attributable to the employer according to Iowa law. Benefits are withheld.

DECISION:

The April 29, 2016, (reference 01) unemployment insurance decision is affirmed. The claimant voluntarily left the employment without good cause attributable to the employer. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Jennifer L. Beckman
Administrative Law Judge

Decision Dated and Mailed

jlb/pjs

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NOTE TO CLAIMANT: You may find additional information about food, housing, and other resources by dialing 211 or at <http://65.166.193.134/IFTWSQL4prod/iowa/public.aspx>.