

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

HEATHER L ANDREWS
Claimant

RIVERSIDE STAFFING SERVICES INC
Employer

APPEAL 16A-UI-09580-JCT
ADMINISTRATIVE LAW JUDGE
DECISION

OC: 07/24/16
Claimant: Appellant (1R)

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Code § 96.5(1)g – Voluntary Leaving/Requalification

STATEMENT OF THE CASE:

The claimant filed an appeal from the August 19, 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 September 20, 2016. The claimant participated personally. The employer participated through Karrie Minch. Claimant exhibit A was received into evidence. The administrative law judge took official notice of the administrative records including the fact-finding documents. Based on the evidence, the arguments presented, 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 last employed part-time on assignment at PSS, as a transcriptionist and was separated from employment on April 22, 2016, when she quit the employment. Continuing work was available.

The claimant was undergoing treatment for cancer and simultaneously working for the employer and had been working reduced hours due to her medical treatment. The employer (through the client) initiated the end of the assignment and notified the claimant. The claimant intended to return to the assignment if possible upon completion of her medical treatment, and did not seek additional assignment. The claimant's doctor did not restrict the claimant from employment but allowed her to work to the extent she was comfortable. The claimant continued to also work part-time for Memorial Park Services after separating with this employer. The claimant contacted this employer to return to work on July 28, 2016. By the time the employer received the needed paperwork from the claimant, she had accepted new employment.

The evidence establishes that the claimant has earned additional wages since separation. These wages include for Memorial Park Services, Starbucks and Fairfield Marriott.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant separated from the employment without good cause attributable to 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(20) 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:

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

The court in *Gilmore v. Empl. Appeal Bd.*, 695 N.W.2d 44 (Iowa Ct. App. 2004) noted that:

"Insofar as the Employment Security Law is not designed to provide health and disability insurance, only those employees who experience illness-induced separations that can fairly be attributed to the employer are properly eligible for unemployment benefits." *White v. Emp't Appeal Bd.*, 487 N.W.2d 342, 345 (Iowa 1992) (citing *Butts v. Iowa Dep't of Job Serv.*, 328 N.W.2d 515, 517 (Iowa 1983)).

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). In this case, the employer ended the assignment with the claimant on April 22, 2016, and did not determine the claimant was ineligible for future assignments. Rather, upon the ending of the assignment, the claimant did not seek reassignment but focused on completing treatment and becoming healthy. She therefore quit the employment, and was not discharged or laid off due to a lack of work. While the claimant's leaving the employment may have been based upon good personal reasons, it was not for a good-cause reason attributable to the employer according to Iowa law. Benefits must be denied.

The evidence establishes that the claimant has additional wages since separation with Memorial Parks Services. The claimant also began employment with the Fairfield Marriott and Starbucks. If she has requalified by earning over ten times her weekly benefit amount after separating from employment with this employer, she is not subject to disqualification based on her separation

from work with the employer and the employer's account will not accrue any charges pursuant to 871 IAC 23.43(8)d.

DECISION:

The August 19, 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.

REMAND: The requalification issue delineated in the findings of fact is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination, including wages earned in the second quarter with employer, Memorial Park Services, which occurred after the April 22, 2016 separation date, as well as wages earned with Starbucks and Fairfield Marriott.

Jennifer L. Beckman
Administrative Law Judge

Decision Dated and Mailed

jlb/rvs