

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MARIA L SORIANO
Claimant

APPEAL NO: 11A-UI-16529-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MARSDEN BLDG MAINTENANCE LLC
Employer

**OC: 11/27/11
Claimant: Respondent (2)**

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

Marsden Building Maintenance, L.L.C. (employer) appealed a representative's December 20, 2011 decision (reference 01) that concluded Maria L. Soriano (claimant) was qualified to receive unemployment insurance benefits and that the employer's account could be subject to charge after a separation from employment. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on January 26, 2012. The claimant failed to respond to the hearing notice and provide a telephone number at which she could be reached for the hearing and did not participate in the hearing. Jeff Allen appeared on the employer's behalf. Based on the evidence, the arguments of the employer, 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 for a good cause attributable to the employer?

OUTCOME:

Reversed. Benefits denied.

FINDINGS OF FACT:

The claimant started working for the employer on March 31, 2011. She worked full-time as a cleaner at a West Des Moines, Iowa, business account of the employer's commercial cleaning business. Her last day of work was November 17, 2011. She voluntarily quit as of that date. The claimant's job with the employer was not in any jeopardy, and continued employment was available to her had she not quit. She had not made the employer aware of any problems she was having in the employment.

She verbally told her area manager that she was quitting to take other work. Agency records do indicate that the claimant did have some other wages from another employer in the fourth quarter 2011, but no information is available to establish when that employment began. The claimant established her claim for unemployment insurance benefits effective November 27,

only two weeks after the ending of her employment with the employer. She has made no weekly continued claims for unemployment insurance benefits since establishing her base claim, and has not actually received any unemployment insurance benefits. It cannot be determined from the available information as to whether the claimant started new employment immediately after leaving the employer, or whether she left for some other reason, then filed her claim for unemployment insurance benefits, and then started new employment.

REASONING AND CONCLUSIONS OF LAW:

If the claimant voluntarily quit her employment, he is not eligible for unemployment insurance benefits unless it was for good cause attributable to the employer. Iowa Code § 96.5-1. Rule 871 IAC 24.25 provides that, 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. A voluntary leaving of employment requires an intention to terminate the employment relationship and an action to carry out that intent. *Bartelt v. Employment Appeal Board*, 494 N.W.2d 684 (Iowa 1993); *Wills v. Employment Appeal Board*, 447 N.W.2d 137, 138 (Iowa 1989). The claimant did express or exhibit the intent to cease working for the employer and did act to carry it out. The claimant would be disqualified for unemployment insurance benefits unless she voluntarily quit for good cause.

The claimant has the burden of proving that the voluntary quit was for a good cause that would not disqualify her. Iowa Code § 96.6-2. The claimant has the burden of proving that the voluntary quit was for a good cause that would not disqualify her. Iowa Code § 96.6-2. The claimant has not satisfied her burden. Benefits are denied.

DECISION:

The representative's December 20, 2011 decision (reference 01) is reversed. The claimant voluntarily left her employment without good cause attributable to the employer. As of November 17, 2011, benefits are withheld until such time as the claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/kjw