

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

CHRISTINA M OTT
Claimant

COMPREHENSIVE SYSTEMS INC
Employer

APPEAL 15A-UI-14370-JCT
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 12/06/15
Claimant: Appellant (4)

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Code § 96.5(1)a – Voluntary Quitting/Other Employment

STATEMENT OF THE CASE:

The claimant filed an appeal from the December 24, 2015, (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 January 20, 2016. The claimant participated personally. The employer participated through Sheryl Heyenga. Val Kolbet also testified for the employer. Employer Exhibit One was admitted into evidence.

ISSUE:

Did the claimant quit the employment with this employer to accept other employment?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed part-time as a direct support specialist and was separated from employment on June 1, 2015, when she resigned to Val Kolbet. Continuing work was available.

When the claimant resigned verbally, she explained to Ms. Kolbet she had accepted a full-time position as an inspector for Pro-Build, which would allow her to earn more money. The claimant was attending school, but not in school at the time she resigned. Ms. Kolbet typed up a resignation letter (Employer Exhibit One) for the claimant to sign. Ms. Kolbet acknowledged at the hearing that the claimant did state at the time of resignation she had accepted another position, but did not know why she did not reference the new position when preparing the claimant's resignation letter for her.

The claimant did perform work for Pro Build as an inspector, full-time, at a rate of pay of \$12 per hour, until she was laid off due to a lack of work on December 7, 2015.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left the employment to accept employment elsewhere.

Iowa Code § 96.5-1-a 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:

a. The individual left employment in good faith for the sole purpose of accepting other or better employment, which the individual did accept, and the individual performed services in the new employment. Benefits relating to wage credits earned with the employer that the individual has left shall be charged to the unemployment compensation fund. This paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

Iowa Admin. Code r. 871-24.28(5) provides:

Voluntary quit requalifications and previously adjudicated voluntary quit issues.

(5) The claimant shall be eligible for benefits even though the claimant voluntarily quit if the claimant left for the sole purpose of accepting an offer of other or better employment, which the claimant did accept, and from which the claimant is separated, before or after having started the new employment. The employment does not have to be covered employment and does not include self-employment.

Iowa Admin. Code r. 871-23.43(5) provides:

(5) Sole purpose. The claimant shall be eligible for benefits even though the claimant voluntarily quit if the claimant left for the sole purpose of accepting an offer of other or better employment, which the claimant did accept, and from which the claimant is separated, before or after having started the new employment. No charge shall accrue to the account of the former voluntarily quit employer.

It is the duty of the administrative law judge as the trier of fact in this case, to determine the credibility of witnesses, weigh the evidence and decide the facts in issue. *Arndt v. City of LeClaire*, 728 N.W.2d 389, 394-395 (Iowa 2007). The administrative law judge may believe all, part or none of any witness's testimony. *State v. Holtz*, 548 N.W.2d 162, 163 (Iowa App. 1996). In assessing the credibility of witnesses, the administrative law judge should consider the evidence using his or her own observations, common sense and experience. *Id.* In determining the facts, and deciding what testimony to believe, the fact finder may consider the following factors: whether the testimony is reasonable and consistent with other believable evidence; whether a witness has made inconsistent statements; the witness's appearance, conduct, age, intelligence, memory and knowledge of the facts; and the witness's interest in the trial, their motive, candor, bias and prejudice. *Id.*

After assessing the credibility of the witnesses who testified during the hearing, considering the applicable factors listed above, and using her own common sense and experience, the administrative law judge finds the claimant initiated the separation when she quit and accepted full-time employment, with a higher rate of pay at Pro Build. Even though the separation was

without good cause attributable to this employer and would, standing alone, disqualify the claimant from receiving benefits, the claimant did leave in order to accept other employment and did perform services for the subsequent employer until she was laid off due to a lack of work in December 2015. Accordingly, benefits are allowed and the account of this employer shall not be charged.

DECISION:

The December 24, 2015, (reference 01) decision is modified in favor of the appellant. The claimant voluntarily left the employment in order to accept other employment. Benefits are allowed, provided the claimant is otherwise eligible. The account of this employer (account number: 06853-000) shall **not** be charged.

Jennifer L. Coe
Administrative Law Judge

Decision Dated and Mailed

jlc/pjs