

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KAY A HUISMAN
Claimant

APPEAL NO: 14A-UI-11231-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

DOLGENCORP LLC
Employer

OC: 10/05/14
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the October 22, 2014, reference 01, decision that denied benefits. After due notice was issued, a telephone hearing was held before Administrative Law Judge Julie Elder on November 19, 2014. The claimant participated in the hearing. Dave Burney, District Manager, participated in the hearing on behalf of the employer.

ISSUE:

The issue is whether the claimant voluntarily left her 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 as a part-time 4th key holder for Dolgencorp from May 7, 2004 to September 15, 2015. She voluntarily left her employment because her husband suffered a fall and was not able to be alone for a period of time.

The claimant's husband fell and sustained injuries September 3, 2014 and was admitted to the hospital September 4, 2014. The claimant worked September 6 and 7, 2014 and began her preplanned vacation September 8, 2014. She expected to return to work September 15, 2014. Around September 13, 2014 the claimant told Manager Julie Bowman if she had the opportunity to hire someone to replace her to go ahead because the claimant knew the employer was short-staffed and needed employees. On September 15, 2014 the claimant asked Ms. Bowman if she could return to work and she told the claimant she would call District Manager Dave Burney. When the claimant did not hear from Ms. Bowman by September 19, 2014 she called Ms. Bowman and was told Mr. Burney said "Let it go for now" and Ms. Bowman should let him "know when the claimant was ready to return to work." Around October 1, 2014 the claimant's husband had made progress and she called Ms. Bowman to ask if she could return to work. Ms. Bowman stated she "didn't see why not" and indicated she would call Mr. Burney. The employer had hired a new associate to replace the claimant by that date. On October 10, 2014 the claimant called Ms. Bowman and was told Mr. Burney said the claimant could return to work but would have to take a cut in pay. The claimant was earning \$11 per hour before her

husband fell. The employer never told the claimant what her new rate of pay would be if she returned. The claimant stated she would need to think about that proposition. That was the last time the claimant spoke to the employer at that location.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left her employment 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) 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.

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. 871 IAC 24.25. Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3),(4). Leaving because of dissatisfaction with the work environment is not good cause. 871 IAC 24.25(1). The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code section 96.6-2.

The claimant was forced to leave her employment because her husband sustained a serious fall September 3, 2014 and could not be at home alone until October 1, 2014. The employer sent the claimant a text message asking her how things were going and stated Mr. Burney wanted to know when she would be returning. The claimant told the employer to hire an associate to replace her if it had a chance to do so because she knew the employer was short-handed and the employer proceeded to do so. Because the claimant's absence exceeded ten days, it is considered a voluntary leaving of employment.

While the claimant did want to return to work after several weeks, the employer had hired a new employee to take her place by that time and unfortunately could not offer the claimant her previous rate of pay of \$11. Although that was disappointing as the claimant was a long-term, loyal employee and the employer did not want to lose her services, under these circumstances the administrative law judge must conclude the claimant's actions constitute a voluntary leaving of her employment. Therefore, benefits must be denied.

DECISION:

The October 22, 2014, reference 01, decision is affirmed. The claimant voluntarily left her 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.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

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