

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SACHA M WILLIAMS

Claimant

APPEAL NO. 11A-UI-06895-M2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

STREAM INTERNATIONAL INC

Employer

OC: 05/23/10

Claimant: Appellant (2)

Section 96.5-1 – Voluntary Quit
871 IAC 24.26(1) – Change in Contract of Hire
871 IAC 24.26(23) – Work Misrepresented

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated May 12, 2011, reference 04, which held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on June 21, 2011. Neither party participated.

ISSUE:

The issue in this matter is whether claimant quit for good cause attributable to employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds:

Claimant returned to work for the employer on November 9, 2010 after the employer agreed that it would work with, and accommodate, the claimant, since her husband was deployed in Afghanistan with the Army National Guard and claimant's 5- and 9-year-old children had Type I diabetes that would necessitate absences.

In March of 2011, the employer told the claimant that she needed to explore a leave of absence because of the absences caused by her children's medical needs that the husband could not cover, since he was deployed to Afghanistan with the Army National Guard. She was told that the absences were being documented for demotion or dismissal. The employer also told her that the military leave act would not help her. Due to the employer's refusal to accommodate as they promised when they hired claimant, the claimant turned in her notice of resignation. Rather than let the claimant finish out her notice period, the employer discharged the claimant effective April 20, 2011.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 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.

871 IAC 24.26(1) and (23) provide:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(1) A change in the contract of hire. An employer's willful breach of contract of hire shall not be a disqualifiable issue. This would include any change that would jeopardize the worker's safety, health or morals. The change of contract of hire must be substantial in nature and could involve changes in working hours, shifts, remuneration, location of employment, drastic modification in type of work, etc. Minor changes in a worker's routine on the job would not constitute a change of contract of hire.

(23) The claimant left work because the type of work was misrepresented to such claimant at the time of acceptance of the work assignment.

The record establishes that the claimant quit with good cause attributable to the employer when it changed the contract of hire when it refused to continue to accommodate claimant's need for leave (which was caused by the needs of two diabetic children while her husband is deployed to Afghanistan) as the employer promised at hire.

DECISION:

The decision of the representative dated May 12, 2011, reference 04, is reversed. Unemployment insurance benefits are allowed, provided claimant is otherwise eligible.

Stan McElderry
Administrative Law Judge

Decision Dated and Mailed

srm/kjw