

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SANDRA JESINA
Claimant

APPEAL NO: 12A-UI-02201-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

TEMP ASSOCIATES - MARSHALLTOWN
Employer

OC: 04-17-11
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Leaving
871 IAC 24.25(2) – Voluntary Quit to Move

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the February 27, 2012, reference 01, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on March 20, 2012. The claimant participated in the hearing with witness/friend Greg Owings. Nancy Mullaney, Manager at the Grinnell Office, participated in the hearing on behalf of the employer.

ISSUE:

The issue is whether the claimant voluntarily left her employment to move.

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 packager for Temp Associates – Marshalltown, last assigned to Mariposa Farms from December 21, 2011 to January 13, 2012. The claimant's soon-to-be ex-husband was harassing and threatening her and had violated a no contact order the claimant took out against him. She feared for her safety and decided she needed to move to get away from him. She relocated to Afton, Iowa, 128 miles away from her previous home because a friend was able to provide her with affordable housing, and she did not find it cost efficient to make the commute for \$7.25 per hour. The employer had continuing work available for the claimant had she not moved.

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 (emphasis added).

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 24.25(2) 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:

(2) The claimant moved to a different locality.

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 moved 128 miles away from her previous home because she was experiencing a domestic abuse situation involving her soon-to-be ex-husband. Her decision to move was understandable and prudent given the circumstances. Unfortunately, the Legislature has not yet addressed the issue of unemployment insurance benefits when a claimant is forced to flee her/his home and job due to domestic abuse. As the law stands now, in order for a claimant to be eligible for benefits when she quits her job, it must be for good cause attributable to the employer (emphasis added), regardless of the validity of the personal reasons that cause her to leave. In this case, the claimant quit due to good personal reasons but those reasons were not attributable to, or the fault of, the employer. Therefore, while sympathetic to the claimant's situation, the administrative law judge must conclude the claimant's leaving was not attributable to the employer but rather to a personal situation and consequently benefits must be denied.

DECISION:

The February 27, 2012, 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

je/css