

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

TORI B MCDONALD
Claimant

MERCY MEDICAL CENTER – CLINTON INC
Employer

APPEAL 15A-UI-13591-SC-T
ADMINISTRATIVE LAW JUDGE
DECISION

OC: 11/08/15
Claimant: Appellant (4)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

Tori McDonald (claimant) filed an appeal from the December 2, 2015, (reference 01) unemployment insurance decision that denied benefits based upon the determination she voluntarily quit her employment when Mercy Medical Center – Clinton, Inc. (employer) accepted her resignation which is not a good-cause reason attributable to the employer. The parties were properly notified about the hearing. A telephone hearing was held on January 4, 2016. The claimant participated on her own behalf. The employer did not participate.

ISSUE:

Did the claimant voluntarily quit the 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 full time as a life enrichment coordinator beginning on June 16, 2008. She was injured in May 2015. She had a second surgery related to her injury in September 2015 and was returned to work with restrictions. The claimant provided updated restrictions to her employer as they became available and the employer determined each time that it did not have work available within her restrictions.

In early November 2015, another employer reached out to the claimant and offered her a position. She accepted the offer and was prepared to start work on November 16, 2015. The claimant submitted her resignation to the employer on November 12, 2015. The new employer called her the following day and rescinded its offer due to business needs. The claimant attempted to rescind her resignation, but the employer accepted her resignation.

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. Benefits are allowed.

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 § 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.

Even though the separation was without good cause attributable to the employer and would, standing alone, disqualify the claimant from receiving benefits, the claimant did leave in order to accept other employment but was separated before having started the new employment. Accordingly, benefits are allowed and the account of the employer shall not be charged.

DECISION:

The December 2, 2015 (reference 01) decision is modified in favor of the appellant. The claimant voluntarily left her employment in order to accept other employment. Benefits are allowed, provided the claimant is otherwise eligible. The account of the employer (account number 104281) shall not be charged.

Stephanie R. Callahan
Administrative Law Judge

Decision Dated and Mailed

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