

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DEBRA A SAMSON**  
Claimant

**APPEAL NO. 12A-UI-03309-LT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA STATE UNIVERSITY**  
Employer

**OC: 02/12/12**  
**Claimant: Appellant (4)**

Iowa Code § 96.5(1) – Voluntary Leaving  
871 IAC 24.26(22) – Voluntary Leaving  
Iowa Code § 96.4(3) – Ability to and Availability for Work  
Iowa Code § 96.4(6)a – Department Approved Training  
871 IAC 24.39(2) – Department Approved Training - Able and Available

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the March 28, 2012 (reference 01) decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call on April 17, 2012 and the record was reopened on April 20, 2012 because of an agency communication error. Claimant participated. Employer participated by Human Resources Specialist Tasha Barton. Claimant's Exhibit A was admitted to the record.

**ISSUES:**

Did claimant voluntarily leave the employment with good cause attributable to employer and is she able to and available for work effective February 12, 2012?

Shall the employer's account be charged?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was laid off from her permanent full-time job at Iowa State University (ISU) on February 11, 2010 because of federal funding cuts. She is not eligible for positions she has filled on a temporary basis, because she does not yet have a bachelor's degree. She has been employed on a temporary basis for several part-time assignments at ISU since then. She worked as a clerk in the office of the Vice President for Student Affairs from February 7 through March 18, 2011; from May 10 through May 31, 2011, she worked at the graduate programs office; she worked at the provost's office from May 13 through March 7, 2012. She completed each assignment as contemplated. She has been granted Department Approved Training (DAT) status while attending school, so she is not available for full-time work but is available for part-time work. ISU worked around her schedule as a full-time student. Her anticipated graduation date is May 2013.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant's separation was not the result of a disqualifying reason.

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(19) and (22) 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:

(19) The claimant was employed on a temporary basis for assignment to spot jobs or casual labor work and fulfilled the contract of hire when each of the jobs was completed. An election not to report for a new assignment to work shall not be construed as a voluntary leaving of employment. The issue of a refusal of an offer of suitable work shall be adjudicated when an offer of work is made by the former employer. The provisions of Iowa Code section 96.5(3) and rule 24.24(96) are controlling in the determination of suitability of work. However, this subrule shall not apply to substitute school employees who are subject to the provisions of Iowa Code section 96.4(5) which denies benefits that are based on service in an educational institution when the individual declines or refuses to accept a new contract or reasonable assurance of continued employment status. Under this circumstance, the substitute school employee shall be considered to have voluntarily quit employment.

....

(22) The claimant was hired for a specific period of time and completed the contract of hire by working until this specific period of time had lapsed. However, this subrule shall not apply to substitute school employees who are subject to the provisions of Iowa Code section 96.4(5) which denies benefits that are based on service in an educational institution when the individual declines or refuses to accept a new contract or reasonable assurance of continued employment status. Under this circumstance, the substitute school employees shall be considered to have voluntarily quit employment.

Iowa Code section 96.4-3 provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in section 96.19, subsection 38, paragraph "b", unnumbered paragraph 1, or temporarily unemployed as defined in section 96.19, subsection 38, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept

suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

Iowa Code section 96.4-6-a-b provides:

6. a. An otherwise eligible individual shall not be denied benefits for any week because the individual is in training with the approval of the director, nor shall the individual be denied benefits with respect to any week in which the individual is in training with the approval of the director by reason of the application of the provision in subsection 3 of this section relating to availability for work, and an active search for work or the provision of section 96.5, subsection 3, relating to failure to apply for or a refusal to accept suitable work. However, an employer's account shall not be charged with benefits so paid.

b. An otherwise eligible individual shall not be denied benefits for a week because the individual is in training approved under 19 U.S.C. § 2296(a), as amended by section 2506 of the federal Omnibus Budget Reconciliation Act of 1981, because the individual leaves work which is not suitable employment to enter the approved training, or because of the application of subsection 3 of this section or section 96.5, subsection 3, or a federal unemployment insurance law administered by the department relating to availability for work, active search for work, or refusal to accept work.

For purposes of this paragraph, "suitable employment" means work of a substantially equal or higher skill level than an individual's past adversely affected employment, as defined in 19 U.S.C. § 2319(l), if weekly wages for the work are not less than eighty percent of the individual's average weekly wage.

871 IAC 24.39 provides:

Department-approved training or retraining program. The intent of the department-approved training is to exempt the individual from the work search requirement for continued eligibility for benefits so individuals may pursue training that will upgrade necessary skills in order to return to the labor forces. In order to be eligible for department-approved training programs and to maintain continuing participation therein, the individual shall meet the following requirements:

(1) Any claimant for benefits who desires to receive benefits while attending school for training or retraining purposes shall make a written application to the department setting out the following:

- a. The educational establishment at which the claimant would receive training.
- b. The estimated time required for such training.
- c. The occupation which the training is allowing the claimant to maintain or pursue.

(2) A claimant may receive unemployment insurance while attending a training course approved by the department. While attending the approved training course, the claimant need not be available for work or actively seeking work. After completion of department-approved training the claimant must, in order to continue to be eligible for unemployment insurance, place no restriction on employability. The claimant must be able to work, available for work and be actively searching for work. In addition, the claimant may be

subject to disqualification for any refusal of work without good cause after the claimant has completed the training.

(3) The claimant must show satisfactory attendance and progress in the training course and must demonstrate that such claimant has the necessary finances to complete the training to substantiate the expenditure of unemployment insurance funds.

This rule is intended to implement Iowa Code section 96.4(6).

Inasmuch as the claimant completed each period of employment with the employer, no disqualification is imposed. Furthermore, the able and available requirement is waived due to claimant's DAT status pursuant to 871 IAC 24.39(2) and the employer's account shall not be charged for benefits paid during DAT eligibility.

**DECISION:**

The March 28, 2012 (reference 01), decision is modified in favor of the appellant. The claimant's separation from employment was for no disqualifying reason. Benefits are allowed, provided she is otherwise eligible. The account of the employer (069259) shall not be charged during claimant's eligibility for DAT.

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Dévon M. Lewis  
Administrative Law Judge

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Decision Dated and Mailed

dml/kjw