

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

STEPHANIE MALDONADO
Claimant

APPEAL NO: 09A-UI-15769-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

TECHNICAL RISK MANAGEMENT LLC
Employer

OC: 07-19-09
Claimant: Appellant (2)

Section 96.5-1 – Voluntary Leaving
871 IAC 24.26(23) – Job Misrepresentation

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the October 12, 2009, reference 03, decision that denied benefits. After due notice was issued, a telephone hearing was held before Administrative Law Judge Julie Elder on November 23, 2009. The claimant participated in the hearing. The employer did not respond to the hearing notice and did not participate in the hearing or request a postponement of the hearing as required by the hearing notice.

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 temporary fire watcher for Technical Risk Management from May 13, 2009 to May 29, 2009. The claimant and her family maintain a home in Sioux City and when the claimant and/or her husband find long-term employment in different areas of the state or country they rent a place to live while paying to keep their Sioux City residence going. The claimant and her husband were working in Kewanee, Illinois, for Miller Installation. The claimant's employment there ended in February 2009 and her husband's employment there ended in May 2009. They worked there for one year and their children were in school there. The claimant's family was preparing to return to Sioux City in May 2009 when she was offered a job with the employer, Technical Risk Management, earning \$12.00 per hour. She told the employer that was not enough money to maintain two households so she was returning to Sioux City. The employer stated it needed five or six people and the claimant asked if they would be interested in hiring her husband and it indicated that it would hire him. When the claimant started working for the employer May 13, 2009, the employer said it did not need everyone at the same time. A couple of days later the claimant asked the employer when her husband would be starting and was told the employer did not know where all of the new employees were coming from but it would call her husband as soon as it needed him. On May 28, 2009, the

claimant asked again about when her husband would be starting work for the employer and was told the employer was not going to hire her husband because it had three other employees coming in. The claimant was not able to handle the financial situation by herself and told the employer she was going home May 29, 2009. The claimant testified she would not have accepted the job if the employer had not promised to hire her husband.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left her employment with good cause attributable to the employer.

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(23) provides:

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:

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

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 dissatisfaction with the work environment is not good cause. 871 IAC 24.25(1). Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3),(4). 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 accepted the position based solely on the understanding the employer would hire her husband because otherwise the claimant could not afford to accept the offer of employment from Technical Risk Management and it was aware of that fact as she told it during the interview she could not take the job unless her husband was also hired. While 871 IAC 24.26(23) references misrepresenting the type of work assigned, the administrative law judge finds it covers situations like the one faced by the claimant as well. Even though the employer may not have misrepresented the type of work the claimant would be doing, it did misrepresent the fact it was going to hire her husband, something she made a condition of accepting the employer's offer of employment. Consequently, the administrative law judge concludes the claimant voluntarily quit her employment with good cause attributable to the employer as defined by Iowa law. Therefore, benefits are allowed.

DECISION:

The October 12, 2009, reference 03, decision is reversed. The claimant voluntarily left her employment with good cause attributable to the employer. Benefits are allowed, provided the claimant is otherwise eligible.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/pjs