

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**TAMMY K LOVE**  
Claimant

**APPEAL NO. 17A-UI-04077-S1-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**FLAGGER PROS USA LLC**  
Employer

**OC: 01/01/17**  
**Claimant: Appellant (1)**

Section 96.5-1 - Voluntary Quit

**STATEMENT OF THE CASE:**

Tammy Love (claimant) appealed a representative's March 30, 2017, decision (reference 01) that concluded she was not eligible to receive unemployment insurance benefits after her separation from employment with Flagger Pros USA (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for May 5, 2017. The claimant participated personally. The employer participated by Victoria Johnson. The claimant offered and Exhibit A was received into evidence.

**ISSUE:**

The issue is whether the claimant was separated from employment for any disqualifying reason.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on August 8, 2016, as a full-time seasonal flagger. On November 1, 2017, the claimant refused three job assignments because of transportation issues. The claimant's vehicle needed an alternator. The claimant told the employer she wanted to work for a local company doing similar work, EC Source. The employer sent a text to the claimant, "I will put in your notes that you have quit and are going to work for EC source now. Hopefully they are paying you for your work tomorrow as we are not." The claimant replied, "No problem." Continued work was available had the claimant not resigned.

On November 2, 2017, the claimant performed work for EC Source and they bought her an alternator and paid two weeks of her rent. She did not work for them again. On November 4 and 7, 2017, the claimant asked the employer for more work. The employer did not rehire the claimant.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow the administrative law judge concludes the claimant is not eligible to receive unemployment insurance benefits.

Iowa Code § 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.

Iowa Admin. Code r. 871-24.25(3) 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:

(3) The claimant left to seek other employment but did not secure employment.

Iowa Admin. Code r. 871-24.25(19) 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:

(19) The claimant left to enter self-employment.

A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980). The claimant's intention to voluntarily leave work was evidenced by the claimant's words and actions. When an employee quits work to seek other employment but no employment is obtained or she leaves for self-employment, her leaving is without good cause attributable to the employer. The claimant told the employer she was quitting for another job but no evidence was presented at the hearing that other covered employment was obtained. Her leaving was without good cause attributable to the employer. The claimant voluntarily quit without good cause attributable to the employer. Benefits are denied.

#### **DECISION:**

The representative's March 30, 2017, decision (reference 01) is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until

the claimant has worked in and has been paid wages for insured work equal to ten times the claimant's weekly benefit amount provided the claimant is otherwise eligible.

---

Beth A. Scheetz  
Administrative Law Judge

---

Decision Dated and Mailed

bas/rvs