

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**KATHERINE A KEEGAN**  
Claimant

**APPEAL NO. 12A-UI-03035-A**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**BARBARA M HOLTZE**  
Employer

**OC: 06/05/11**  
**Claimant: Respondent (4-R)**

Section 96.5-1-a – Quit for Other Employment

**STATEMENT OF THE CASE:**

Barbara M. Holtze filed a timely appeal from an unemployment insurance decision dated March 15, 2012, reference 03, which allowed benefits to Katherine A. Keegan upon a finding that she had been discharged from employment under circumstances not constituting job-related misconduct. After due notice was issued, a hearing was held in Sioux City, Iowa on May 22, 2012 with Ms. Holtze participating and being represented by Lance D. Ehmcke, Attorney at Law. Employer Exhibits One and Two were admitted into evidence. Ms. Keegan did not respond when paged at the time of the hearing and again prior to closing the record.

**ISSUES:**

Was the separation a quit or a discharge?  
What are the unemployment insurance consequences to claimant and employer?

**FINDINGS OF FACT:**

Katherine A. Keegan was employed by Barbara M. Holtze to provide care for Ms. Holtze's husband, David, who has been ill for many years. Ms. Keegan was hired on October 1, 2011 and resigned effective January 13, 2012. Ms. Keegan resigned to return to a former employer. That employment began January 16, 2012 and ended April 13, 2012.

**REASONING AND CONCLUSIONS OF LAW:**

Although the fact-finding decision indicated that the separation was a discharge, all of the evidence submitted for the contested case proceeding indicates that Ms. Keegan resigned.

Iowa Code section 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 section 96.8, subsection 5.

An individual who voluntarily leaves employment for the sole purpose of accepting other employment is not disqualified for benefits based upon the first separation. On the other hand, the first employer is relieved of charges. Based on the evidence in this record, the administrative law judge concludes that no disqualification should be imposed on Ms. Keegan based on her January 13, 2012 separation. No benefits shall be charged to the account of Ms. Holtze, however.

The claimant's subsequent employment was with Doug Johnson of Dakota Dunes, South Dakota. It does not appear that the agency has adjudicated the consequences of that separation. Furthermore, it appears that Ms. Keegan requested and received unemployment insurance benefits during the latter employment without reporting any earnings. These questions must be remanded to the Unemployment Insurance Services Division.

**DECISION:**

The unemployment insurance decision dated March 15, 2012, reference 03, is modified. The separation was a quit for other employment, not a discharge. The claimant is entitled to receive unemployment insurance benefits, provided she meets all other eligibility requirements. No benefits shall be charged to the account of Barbara M. Holtze.

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Dan Anderson  
Administrative Law Judge

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Decision Dated and Mailed

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