

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MARILYN K HEAVERLO
Claimant

APPEAL NO. 09A-UI-05022-S2

**ADMINISTRATIVE LAW JUDGE
DECISION**

EQUITY ASSOCIATES INC REALTORS
Employer

**Original Claim: 02/22/09
Claimant: Respondent (1)**

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Equity Associates (employer) appealed a representative's March 17, 2009 decision (reference 04) that concluded Marilyn Heaverlo (claimant) was eligible to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a hearing was scheduled for April 29, 2009, in Cedar Rapids, Iowa. The claimant was represented by J. Richard Johnson, Attorney at Law, and participated personally. The employer participated by Robert Miell, Property Manager. The claimant offered and Exhibit A was received into evidence. The employer offered and Exhibit One was received into evidence.

ISSUE:

The issue is whether the claimant voluntarily quit work without good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds that: The claimant was hired on May 21, 2008 with Equity Associates as a full-time payroll/administrator. She thought she was hired in June 2008 with Elite Properties, but her wages were not reported to the State of Iowa by that company.

The claimant regularly performed occupancy checks on properties owned or managed by the property manager. The employer would give her a list of properties. She would go to the properties and knock loudly on the door. If no one answered the door she would use the key that the employer gave her to open the door. Once inside, the claimant would determine if the tenants were still in residence or if the tenant's belongings were inside the property. After obtaining that information, the claimant would proceed to court and participate in a forcible entry and detainer action concerning the tenant. The claimant would represent to the court officials whether rents had been paid and if the tenant was in residence at the property.

On February 16, 2009, the claimant checked occupancy on six properties. At one such property, a tenant yelled at her for entering the property with a key. The tenant stated he had been instructed to pay rent to another entity. The claimant was fearful of the tenant. The

claimant returned to the office. Office workers told her she was not to enter properties that appeared on a list that was handed to her. Employees said that those properties had been foreclosed upon and the property manager neither owned nor managed them. The claimant checked with the property manager, who told her to proceed as normal. The claimant went to court, told the court that the tenants had not paid rent and actions were taken against the tenants.

The claimant again followed the property manager's instructions to perform occupancy investigations on February 23, 2009, and proceed to court. Later, she realized that the properties appeared on another list of properties not owned nor managed by the property manager.

On February 24, 2009, the property manager instructed the claimant to perform more occupancy checks. The claimant quit work because she was fearful of legal consequences for following the property manager's instructions.

At the hearing, the property manager indicated that even though the properties were in foreclosure, the property manager had authority over the properties. Rent payments were being paid by tenants into a bank. The employer did not tell the claimant this information. The claimant proceeded with legal action on properties where the tenants may have been paying rent based on the property manager's instructions.

REASONING AND CONCLUSIONS OF LAW:

For the following reasons, the administrative law judge concludes the claimant voluntarily quit work 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(4) 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:

(4) The claimant left due to intolerable or detrimental working conditions.

The law presumes a claimant has left employment with good cause when she quits because of intolerable or detrimental working conditions. 871 IAC 24.26(4). The Iowa Supreme Court has stated that a notice of intent to quit is not required when the employee quits due to intolerable or detrimental working conditions. Hy-Vee, Inc. v. Employment Appeal Board and Diyonda L. Avant, (No. 86/04-0762) (Iowa Sup. Ct. November 18, 2005). The employer asked the claimant to proceed with legal action on properties where the tenants may have been paying rent. The claimant subsequently quit due to those conditions. The claimant is eligible to receive unemployment insurance benefits.

DECISION:

The representative's March 17, 2009 decision (reference 04) is affirmed. The claimant voluntarily quit with good cause attributable to the employer. The claimant is eligible to receive unemployment insurance benefits.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/kjw