

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LISA A HINZ
Claimant

APPEAL NO: 11A-UI-10269-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

FARMERS FEED & GRAIN COMPANY INC
Employer

OC: 07/03/11
Claimant: Respondent (1)

Section 96.5-1 – Voluntary Quit
871 IAC 24.25(40) – Resignation/Layoff

STATEMENT OF THE CASE:

The employer appealed a department decision dated July 27, 2011, reference 01, that held claimant resigned without good cause effective July 15, 2011, but employer terminated her employment on July 1, which makes claimant eligible for benefits from that date to July 16. A telephone hearing was held on August 29, 2011. The claimant did not participate. Steven Eastman, owner, participated for the employer.

ISSUES:

Whether the claimant voluntarily quit without good cause attributable to the employer.

Whether employer terminated claimant prior to her proposed quit date.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witness and having considered the evidence in the record, finds: The claimant worked for the employer as a full-time receiving agent from March 22, 2000 to July 1, 2011. The claimant advised the employer on June 24 that she would be quitting effective July 15 in order to spend more time with her family. The employer terminated claimant's employment on July 1 by paying her for the week of June 27 through that date.

The employer did not protest claimant's claim by offering any voluntary quit date and it did not state claimant failed to provide a proposed quit date. At department fact-finding, claimant stated she proposed to work thru July 15 (which is a Friday). When the employer appealed, it contested the claimant receiving any benefit prior to July 1, and stated she was entitled for the period from July 2 through July 15.

The claimant failed to respond to the hearing notice.

REASONING AND CONCLUSIONS OF LAW:

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 24.25(38) 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:

(38) Where the claimant gave the employer an advance notice of resignation which caused the employer to discharge the claimant prior to the proposed date of resignation, no disqualification shall be imposed from the last day of work until the proposed date of resignation; however, benefits will be denied effective the proposed date of resignation.

The administrative law judge concludes the claimant voluntarily quit without good cause attributable to her employer due to resignation effective to working her notice period on July 15, 2011. Since the employer terminated claimant on July 1, she is entitled to benefits from that date to July 15.

The employer's contention claimant gave notice on June 24 she would be resigning without a proposed quit date is not credible. It never offered this information in its claim protest and/or at department fact-finding when claimant disclosed July 15 was her proposed quit date. The employer wrote in its appeal claimant is entitled to benefits for the period from July 2 to July 15, but not prior to July 1. The department makes no statement about claimant receiving any benefit prior to July 1.

DECISION:

The department decision dated July 27, 2011, reference 01, is affirmed. The employer terminated claimant on July 1, 2011 for no disqualifiable reason prior to her proposed resignation date of July 15. Benefits are allowed the claimant from the termination date to her proposed quit date. Benefits are then denied until the claimant requalifies by working in and being paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/kjw