

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

ELIZABETH S SANDERS
Claimant

AMMESA INC
Employer

APPEAL 15A-UI-02131-JCT
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 01/18/15
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant filed an appeal from the February 11, 2015, (reference 01) unemployment insurance decision that denied benefits based upon the claimant's separation. The parties were properly notified about the hearing. A telephone hearing was held on March 18, 2015. The claimant participated. The employer participated through Mitzi Willis, operations manager. Employer Exhibit One was admitted.

ISSUE:

Did claimant voluntarily quit the employment with good cause attributable to employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed full-time as a commercial cleaner and was separated from employment on December 5, 2014, when she resigned. The claimant worked on December 3, 2014. The claimant called out of work on December 4, 2014 due to the death of her sister-in-law, who passed away on December 2, 2014. She was scheduled to work on December 5 and had a conversation with Mitzi Willis. During this call, the claimant was asked if she was going to continue working for the company. The claimant had attended the funeral during the day but her body felt tired and sore and needed to tend to her family. The claimant felt she was put on the spot to make a decision and elected to resign. The employer stressed attendance was very important in the job and the claimant had only been employed for two weeks and was already missing work. Continuing work was available.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant's separation from the employment was without good cause attributable to the employer.

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(23) 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 § 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 § 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:

(23) The claimant left voluntarily due to family responsibilities or serious family needs.

Iowa Admin. Code r. 871-24.25(37) 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:

(37) The claimant will be considered to have left employment voluntarily when such claimant gave the employer notice of an intention to resign and the employer accepted such resignation. This rule shall also apply to the claimant who was employed by an educational institution who has declined or refused to accept a new contract or reasonable assurance of work for a successive academic term or year and the offer of work was within the purview of the individual's training and experience.

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). 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).

In this case, the claimant had a death in her family and missed work. While the claimant's work schedule permitted her to attend the funeral during the day and still work in the evening, the claimant did not continue work or seek any arrangements to preserve her employment so she could be with her family. The employer also needed to run its business with dependable employees. It was not improper for the employer to inquire about the claimant's future plans in light of her call outs and short employment history. It is understandable that the claimant felt

overwhelmed wanting to care for her family during this time but also having her employment responsibilities. The claimant chose to quit instead of attending work or trying to preserve her employment. While the claimant's leaving the employment may have been based upon good personal reasons, it was not for a good-cause reason attributable to the employer according to Iowa law. Benefits must be denied.

DECISION:

The February 11, 2015, (reference 01) unemployment insurance decision is affirmed. The claimant voluntarily left the employment without good cause attributable to the employer. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Jennifer L. Coe
Administrative Law Judge

Decision Dated and Mailed

jlc/pjs