

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KRISTINA CAMPBELL

Claimant

APPEAL NO: 09A-UI-18939-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

NATIONWIDE MUTUAL INSURANCE CO

Employer

OC: 11-01-09

Claimant: Appellant (1)

Section 96.5-1 – Voluntary Leaving
871 IAC 24.25(3) – Other Employment

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the December 8, 2009, reference 01, decision that denied benefits. After due notice was issued, a telephone hearing was held before Administrative Law Judge Julie Elder on January 27, 2010. The claimant participated in the hearing. Michelle Fishbach, Human Resources Specialist and Dan Shehan, Personal Lines Service Center Supervisor, participated in the hearing on behalf of the employer.

ISSUE:

The issue is whether the claimant voluntarily left her employment with good cause attributable to the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time customer service representative in the call center for Nationwide Mutual Insurance from April 6, 2009 to October 21, 2009. She previously worked for Mercy Medical Center but when Mercy started looking at cutbacks she accepted an incentive package to find another job. She left Mercy under good terms and was told she would be eligible for rehire in six months if there was an opening. She started working at Nationwide but was not as happy there as she had been at Mercy so after six months she reapplied at Mercy and was rehired for her previous job. Mercy told her she would need to undergo a background check and a drug screen but could give Nationwide her two-week notice that she was leaving. She expected to start at Mercy October 26, 2009, but the background check and drug screen was not completed by that date so her start date was moved to November 2, 2009. The claimant took her drug test and was notified her urine sample was too diluted and she would need to retest. She took another test and was told November 4, 2009, that the second drug screen came back as too diluted as well so her job offer was rescinded and she was unable to perform any services for her new employer.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left her employment without 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 24.25(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.

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 claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer, Nationwide (Emphasis added). Iowa Code section 96.6-2. While the claimant's situation is unfortunate and the administrative law judge does not believe her drug tests were diluted because she is a drug user, the fact remains that she left her job with Nationwide to return to work at Mercy but was never allowed to perform services for the "new" employer. Under these circumstances the administrative law judge has no choice but to conclude the claimant left her employment to accept employment with Mercy but never performed any services for Mercy after she was rehired. Consequently, the claimant is not eligible to receive unemployment insurance benefits under Iowa unemployment insurance law.

DECISION:

The December 8, 2009, reference 01, decision is affirmed. The claimant voluntarily left her 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.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/pjs