

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**KATHY L DAVIS**  
Claimant

**APPEAL NO. 13A-UI-03968-HT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**HORIZONS UNLIMITED OF PALO ALTO**  
Employer

**OC: 03/10/13**  
**Claimant: Appellant (1)**

Section 96.5(1) – Quit

**STATEMENT OF THE CASE:**

The claimant, Kathy Davis, filed an appeal from a decision dated March 26, 2013, reference 01. The decision disqualified her from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on May 8, 2013. The claimant participated on her own behalf. The employer, Horizons Unlimited, participated by CEO Ronald Askland and Human Resources Manager Pam Beschorner.

**ISSUE:**

The issue is whether the claimant quit work with good cause attributable to the employer.

**FINDINGS OF FACT:**

Kathy Davis was employed by Horizons Unlimited from July 26, 2007 until February 4, 2013 as a full-time residential manager. She went on approved FML October 29, 2012, for pregnancy-related problems. The child was born January 12, 2013, but was placed in neo-natal intensive care.

On January 23, 2013, CEO Ron Askland sent the claimant a letter notifying her the FML had been exhausted but offering her a leave of absence until she could return to work. Under FML she would have been returned to her regular job at the same hours and wages but after a leave of absence the only job available would be a residential instructor which was paid \$5.25 per hour less and she would have to work nights and weekends. She lacked child care for nights and weekends so declined the leave of absence offer and resigned.

The child's father is employed and could have taken FML himself to help cover the necessary time after Ms. Davis' FML ended. The two of them made the decision not to have him take time off from work because his salary was higher. Ms. Davis turned in her office keys and cleaned out her desk.

**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(17) 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:

(17) The claimant left because of lack of child care.

The claimant elected to quit rather than accept the offer of a leave of absence from the employer or to have the child's father take time off to help care for the new born. Lack of child care is not good cause attributable to the employer for quitting under the provisions of the above Administrative Code section. The claimant is disqualified.

**DECISION:**

The representative's decision of March 26, 2013, reference 01, is affirmed. Kathy Davis is disqualified and benefits are withheld until she has earned ten times her weekly benefit amount in insured work, provided she is otherwise eligible.

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Bonny G. Hendricksmeier  
Administrative Law Judge

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Decision Dated and Mailed

bgh/css