

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

STACY M SHANLE
Claimant

APPEAL NO: 08A-UI-09620-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ALPLA INC
Employer

**OC: 08/17/08 R: 12
Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

Stacy M. Shanle (claimant) appealed a representative's October 9, 2008 decision (reference 01) that concluded she was not qualified to receive unemployment insurance benefits after a separation from employment from Alpla, Inc. (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on November 4, 2008. The claimant participated in the hearing. Julie Underwood appeared on the employer's behalf. Two other witnesses, John Anderson and James Parkhill, were available on behalf of the employer but did not testify. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the claimant voluntarily quit for a good cause attributable to the employer?

FINDINGS OF FACT:

After a prior period of employment with the employer through a temporary employment firm, the claimant started working directly for the employer on November 29, 2007. She worked full time as a quality assurance worker in the employer's plastic bottle manufacturing and packaging business. Her last day of work was January 25, 2008.

The claimant's primary reason for quitting was because she had decided to move to California to apply for work she had seen advertised on the Internet. She had not received an offer of employment from any employer at the time she quit. She ultimately moved to California in approximately March, but was not offered employment and did not begin new employment until about August 11. She worked for the new employer four days before the new employer had to lay her off due to loss of a loan application; she earned approximately \$300.00 in that new employment.

The claimant's secondary reason for leaving was displeasure with the employer's application of its attendance policy. The claimant had been absent on December 21 and December 22, 2007 due to being sick, and had been absent on January 18 through January 20, 2008 due to her

stepson being in car accident and hospitalized. As a result, on January 23, 2008 she was given a first and final warning regarding her attendance. She felt this was inconsistent with the information given to her by her supervisor, as she understood she should have been given a prior verbal and a prior written warning before being given a final warning, and she believed that the employer should have excused the absence due to the stepson's car accident as an emergency. However, the employer has a separate attendance guideline for persons within their 90-day probationary period, such as the claimant. The claimant had been provided a copy of this guideline, which provides that if an employee has two absences in the first 90 days they will be given a first and final warning and that a further incident after that warning would result in review for termination. While it is possible the claimant's supervisor might have misinterpreted or chose to forgive absences other than as provided under the employer's policy, the policy itself did not provide any special treatment for an absence due to an emergency situation involving a family member including a stepson.

REASONING AND CONCLUSIONS OF LAW:

If the claimant voluntarily quit her employment, she is not eligible for unemployment insurance benefits unless it was for good cause attributable to the employer. Iowa Code § 96.5-1.

Rule 871 IAC 24.25 provides that, 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. A voluntary leaving of employment requires an intention to terminate the employment relationship and an action to carry out that intent. Bartelt v. Employment Appeal Board, 494 N.W.2d 684 (Iowa 1993); Wills v. Employment Appeal Board, 447 N.W.2d 137, 138 (Iowa 1989). The claimant did express or exhibit the intent to cease working for the employer and did act to carry it out. The claimant would be disqualified for unemployment insurance benefits unless she voluntarily quit for good cause.

The claimant has the burden of proving that the voluntary quit was for a good cause that would not disqualify her; the cause must generally be attributable to the employer. Iowa Code § 96.6-2. Leaving to seek other employment where an offer of such other employment has not been secured before quitting is not good cause. 871 IAC 24.25(3). Leaving to move to another locality to seek other employment is not good cause. 871 IAC 24.25(2). Leaving because a warning has been given is not good cause. 871 IAC 24.25(28). The claimant has not satisfied her burden. Benefits are denied until she has earned requalifying wages in other employment.

DECISION:

The representative's October 9, 2008 decision (reference 01) is affirmed. The claimant voluntarily left her employment without good cause attributable to the employer. As of January 25, 2008, benefits are withheld until such time as the claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is then otherwise eligible.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/pjs