

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

THERESA KERR
Claimant

APPEAL NO. 10A-UI-16704-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

BICKFORD COTTAGE FORT DODGE LLC
Employer

OC: 10/24/10
Claimant: Appellant (1)

Iowa Code § 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Theresa Kerr (claimant) appealed an unemployment insurance decision dated December 1, 2010, reference 02, which held that she was not eligible for unemployment insurance benefits because she voluntarily quit her employment with Bickford Cottage Fort Dodge, LLC (employer) without good cause attributable to the employer. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on January 20, 2011. The claimant participated in the hearing. The employer participated through Director Beth Fleming. 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:

The issue is whether the claimant's voluntary separation from employment qualifies her to receive unemployment insurance benefits.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds that: The claimant was hired on June 11, 2004 as a certified nursing assistant and she was most recently working full-time. She gave notice to quit on April 5, 2010 and worked through April 30, 2010. The claimant quit because her husband had been transferred and they moved to Montana.

REASONING AND CONCLUSIONS OF LAW:

The issue to be determined is whether the reasons for the claimant's separation from employment qualify her to receive unemployment insurance benefits. The claimant is not qualified to receive unemployment insurance benefits if she voluntarily quit without good cause attributable to the employer. Iowa Code § 96.5-1.

871 IAC 24.25(2) 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:

(2) The claimant moved to a different locality.

The claimant has the burden of proving that the voluntary quit was for a good reason that would not disqualify her. Iowa Code § 96.6-2. The evidence demonstrates she voluntarily quit on April 30, 2010 to move with her husband to Montana. While the claimant may have had compelling personal reasons to voluntarily quit her employment, these reasons do not constitute good cause attributable to the employer. Benefits are therefore denied.

DECISION:

The unemployment insurance decision dated December 1, 2010, reference 02, is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until she has worked in and has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/kjw