

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ASHLEE M HALEY**  
Claimant

**APPEAL NO. 11A-UI-16279-LT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**NELLIS MANAGEMENT COMPANY**  
Employer

**OC: 11/13/11**  
**Claimant: Respondent (4)**

Iowa Code § 96.5(1)a – Voluntary Leaving – Other Employment

**STATEMENT OF THE CASE:**

The employer filed an appeal from the December 15, 2011 (reference 02) decision that allowed benefits. After due notice was issued, a hearing was held by telephone conference call on January 24, 2012. Claimant did not respond to the hearing notice instructions and did not participate. Employer participated through general manager Michelle Manders.

**ISSUE:**

The issue is whether claimant voluntarily left the 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: Claimant was employed part-time as a crew person and was separated from employment on August 10, 2011. She quit to accept work with Iowa Lutheran (Central Iowa Hospital Corp) and worked out her schedule with Long John Silver's (Nellis Management Company). She lost her job at Iowa Lutheran and returned to Nellis offering her services within two or three weeks. There were no jobs available at that time.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left the employment to accept employment elsewhere.

Iowa Code § 96.5-1-a 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. But the individual shall not be disqualified if the department finds that:

a. The individual left employment in good faith for the sole purpose of accepting other or better employment, which the individual did accept, and the individual performed services in the new employment. Benefits relating to wage credits earned with the employer that the individual has left shall be charged to the unemployment compensation fund. This paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

871 IAC 24.28(5) provides:

Voluntary quit requalifications and previously adjudicated voluntary quit issues.

(5) The claimant shall be eligible for benefits even though the claimant voluntarily quit if the claimant left for the sole purpose of accepting an offer of other or better employment, which the claimant did accept, and from which the claimant is separated, before or after having started the new employment.

871 IAC 23.43(5) provides:

(5) Sole purpose. The claimant shall be eligible for benefits even though the claimant voluntarily quit if the claimant left for the sole purpose of accepting an offer of other or better employment, which the claimant did accept, and from which the claimant is separated, before or after having started the new employment. No charge shall accrue to the account of the former voluntarily quit employer.

Even though the separation was without good cause attributable to the employer and would, standing alone, disqualify the claimant from receiving benefits, the claimant did leave in order to accept other employment and did perform services for the subsequent employer. Accordingly, benefits are allowed and the account of the employer shall not be charged.

**DECISION:**

The December 15, 2011 (reference 02) decision is modified in favor of the appellant. The claimant voluntarily left her employment in order to accept other employment. Benefits are allowed, provided the claimant is otherwise eligible. The account of the employer (account number 011721) shall not be charged.

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Dévon M. Lewis  
Administrative Law Judge

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Decision Dated and Mailed

dml/pjs