

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JESSICA C NOTHDORF
Claimant

MARC S HARDING PC
Employer

APPEAL 15A-UI-05780-DL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 03/29/15
Claimant: Appellant (1)**

Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Admin. Code r. 871-24.22(2) – Able & Available - Benefits Eligibility Conditions

STATEMENT OF THE CASE:

The claimant filed an appeal from the May 7, 2015, (reference 02) unemployment insurance decision that denied benefits based upon voluntarily quitting the employment. The parties were properly notified about the hearing. A telephone hearing was held on July 27, 2015. Claimant participated and was represented by Stuart Higgins, Attorney at Law. Employer participated through attorney, Marc Harding. Claimant's Exhibit A was received. Employer's Exhibit 1 was received.

ISSUE:

Did claimant voluntarily quit the employment with good cause attributable to employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed part time (24 hours per week) as a legal assistant from May 6, 2013, and was separated from employment on April 27, 2015, when she quit. She was hired to work "lenient" hours part time Monday, Tuesday, Thursday and Friday from 8:50 a.m. to 3:00 p.m. On March 27, Harding told claimant he was cutting everyone's hours effective March 31 because he would not be in the office much over the summer for various personal and business reasons, and because the office was most busy on Mondays and Friday afternoons, he wanted her to change her hours to Monday and Friday from 8:45 a.m. to 4:30 p.m., which would reduce her hours to 12 per week. The prior summer she had voluntarily reduced her hours but did not have plans to do so the summer of 2015. Claimant filed a claim for partial unemployment insurance benefits and made claims for benefits totaling \$347.00 through the week ending April 25, 2015. In response to that claim Harding told her the hours would return to 24 per week and she may start later but she would have to work through 4:30 p.m. Claimant said that was still not workable with after-school care and quit.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant's separation from the employment was without good cause attributable to the employer.

Iowa Code § 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.

Iowa Admin. Code r. 871-24.25(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 § 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:

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

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). "Good cause" for leaving employment must be that which is reasonable to the average person, not the overly sensitive individual or the claimant in particular. *Uniweld Products v. Indus. Relations Comm'n*, 277 So.2d 827 (Fla. Dist. Ct. App. 1973). An employer has the right to allocate personnel in accordance with the needs and available resources. *Brandl v. Iowa Dep't of Job Serv.*, (No. ___-___/___-___, Iowa Ct. App. filed ___, 1986).

While claimant's leaving the employment may have been based upon good personal reasons, because Harding restored her hours, it was not for a good-cause reason attributable to the employer according to Iowa law. Benefits must be denied.

DECISION:

The May 7, 2015, (reference 02) unemployment insurance decision is affirmed. Claimant voluntarily left the 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.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/css