

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

GLORIA RIESBERG
Claimant

APPEAL NO: 12A-UI-06419-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

SCI DES MOINES LLC
Employer

OC: 03-25-12
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the May 23, 2012, reference 01, decision that denied benefits. After due notice was issued, a telephone hearing was held before Administrative Law Judge Julie Elder on June 25, 2012. The claimant participated in the hearing. Deb Clites, vice-president, participated in the hearing on behalf of the employer.

ISSUE:

The issue is whether the claimant voluntarily left her 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: The claimant was employed as a full-time breakfast attendant for Stoney Creek Inn of Des Moines from July 14, 2008 to March 6, 2012. She had 28 hours of vacation left but wanted to take a vacation to see family in California from March 6 through March 27, 2012. She did not fill out a vacation request form and have approval for her time off before booking her airline ticket and when the employer learned of the length of time she wanted off, it told her it could not grant her that much unpaid time off, as she would have been gone three weeks and missed 16 working days. The employer explained to the claimant if she left, she would be considered to have voluntarily quit her job but would be eligible for rehire and reinstatement of her original hire date and all applicable benefits. The claimant chose to go on her trip from March 6 through March 27, 2012, and the employer considered her to have voluntarily quit. When she returned, there was a voice message on her machine instructing her not to report for work March 27, 2012, but asking the claimant to meet with it March 28, 2012. At that time, the employer told the claimant it did not have any positions available but would notify her when one became available. On April 30, 2012, the employer called the claimant and asked her to return to work May 1, 2012. The claimant did so and was reinstated with her original hire date and her benefits.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left her employment without good cause attributable to the employer.

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.

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. 871 IAC 24.25. Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3),(4). Leaving because of dissatisfaction with the work environment is not good cause. 871 IAC 24.25(1). The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code Section 96.6-2. The claimant wanted to take a three-week vacation but only had 28 hours of paid time off available. She talked to the employer about going on vacation but not about how long she expected to be gone and the employer indicated she could have some additional time off beyond her 28 hours. The claimant never submitted a written vacation request stating the length of time she would be gone but went ahead and made her airline reservations without having notified the employer how long she would be gone. When the employer learned she planned to be gone for three weeks, 16 days of which were scheduled workdays, it told her it would have to consider her to have voluntarily quit her job and it could not guarantee her job would still be available when she returned if she decided to proceed with her vacation plans. It also notified her she would be eligible for rehire at her original hire date and her benefits would be reinstated if she was rehired. The employer's conditions were not unreasonable and although it did not have her job available immediately upon the claimant's return from vacation, it did rehire her effective May 1, 2012. The claimant knew before she left that she may not have a job when she returned after being gone three weeks but made the decision to go on a long vacation anyway. Under these circumstances, the administrative law judge must conclude the claimant's voluntary leaving of her employment cannot be attributed to the employer as that term is defined by Iowa law. Therefore, benefits must be denied.

DECISION:

The May 23, 2012, reference 01, decision is affirmed. The claimant voluntarily left her 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.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/kjw