

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**ROY J CAMPBELL**  
Claimant

**APPEAL 18A-UI-10192-CL-T**  
**ADMINISTRATIVE LAW JUDGE**  
**DECISION**

**IOWA INTERSTATE RAILROAD**  
Employer

**OC: 05/06/18**  
**Claimant: Appellant (2)**

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Iowa Code § 96.5(1) – Voluntary Quitting

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the October 5, 2018, (reference 05) unemployment insurance decision that denied benefits based upon a separation from employment. The parties were properly notified about the hearing. A telephone hearing was held on October 25, 2018. Claimant participated personally. Employer did not register for the hearing and did not participate.

**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 began working for employer in July 2018. Claimant last worked as a full-time student conductor. Claimant was separated from employment on September 18, 2018, when he resigned.

On September 12, 2018, claimant's wife gave birth to their son. Employer allowed claimant three days off of work to be present for the birth and for other caretaking duties. After claimant's wife gave birth, she developed an infection and became very ill. Claimant's son was also diagnosed with a heart murmur and needed to be taken to doctor's appointments. Claimant needed to be home to care for his wife and son.

On September 18, 2018, claimant informed employer of the circumstances. Employer told claimant it would not allow him any further time off as he did not have sick time available and did not qualify for Family and Medical Leave Act (FMLA) leave. Claimant then stated he had no other option but to resign. Employer's human resource employee told claimant that employer was willing to re-hire him when it had another opening for his position. However, employer did not anticipate any openings for the same position until May 2019. Employer also instructed claimant to continue to check its website for openings and to contact the human resources department when he found an opening for which he was qualified.

Claimant's wife recovered on approximately September 25, 2018, and is now able to care for herself and the couple's child.

Claimant continues to check employer's website, but there have been no openings for which he is qualified since the time his wife recovered.

Claimant has not accepted any other employment since he resigned from employer.

### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes claimant voluntarily left the employment with good cause attributable to the employer.

Iowa Code section 96.5(1) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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 Code section 96.5(1)c provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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:

c. The individual left employment for the necessary and sole purpose of taking care of a member of the individual's immediate family who was then injured or ill, and if after said member of the family sufficiently recovered, the individual immediately returned to and offered the individual's services to the individual's employer, provided, however, that during such period the individual did not accept any other employment.

Iowa Admin. Code r. 871-24.26(8) provides:

This separation is not considered to be a voluntary quit.

(8) The claimant left for the necessary and sole purpose of taking care of a member of the claimant's immediate family who was ill or injured, and after that member of the claimant's family was sufficiently recovered, the claimant immediately returned and offered to perform services to the employer, but no work was available. Immediate family is defined as a collective body of persons who live under one roof and under one head or management, or a son or daughter, stepson, stepdaughter, father, mother, father-in-law, mother-in-law. Members of the immediate family must be related by blood or marriage.

In this case, claimant resigned for the sole purpose of caring for his ill wife and son. Claimant has not accepted any other employment since he resigned from employer. Upon his wife's

recovery, claimant took the steps as directed by employer, to return to employment. However, employer currently has no work available for claimant.

Claimant has established that he resigned for no disqualifying reason.

**DECISION:**

The October 5, 2018, (reference 05) unemployment insurance decision is reversed. Claimant voluntarily left the employment for no disqualifying reason. Benefits are allowed, provided he is otherwise eligible and the benefits withheld shall be paid.

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Christine A. Louis  
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Decision Dated and Mailed

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