

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MELISSA A BARBER
Claimant

APPEAL NO: 14A-UI-08044-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

ALLIEDBARTON SECURITY SERVICES LLC
Employer

OC: 06/29/14
Claimant: Respondent (1)

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Allied Barton Security Services (employer) appealed a representative's July 29, 2014, decision (reference 02) that concluded Melissa Barber (claimant) voluntarily quit work with good cause attributable to the employer. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for August 26, 2014. The claimant participated personally. The employer participated by Mark Crumley, Operations Manager; Jeff Faudere, Human Resources Specialist/District Recruiter; and Nick Ellringer, Operations Manager. The employer offered and Exhibit 1 was received into evidence. Exhibit D-1 was also admitted into evidence.

ISSUE:

The issue is whether the claimant voluntarily quit work without good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on February 26, 2014, as a security officer. The claimant signed for receipt of the employer's handbook. She was paid wages every other Friday. The claimant took a job where she was required to use her own car to drive to another location. The employer promised to pay her gas and mileage. She turned in her receipt on June 11, 2014, and expected to be paid on June 20, 2014. The employer did not pay her on June 20 or 27, 2014. The claimant quit work on June 27, 2014. On July 11, 2014, the employer paid the claimant.

The claimant filed for unemployment insurance benefits with an effective date of June 29, 2014. The employer did not participate in the fact-finding interview on July 28, 2014.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant voluntarily quit with 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.

A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980). The claimant's intention to voluntarily leave work was evidenced by her words and actions. She told the employer she was leaving and quit work. In the absence of agreement to the contrary, an employer's failure to pay wages when due constitutes good cause for leaving the employment. Deshler Broom Factory v. Kinney, 140 Nebraska 889, 2 N.W.2d 332 (1942).

When an employee quits work because the employer did not pay wages when they were due without an agreement to the contrary, her leaving is with good cause attributable to the employer. The claimant left work because she was not paid her wages for expenses when they were due and there was no agreement to the contrary. Her leaving was with good cause attributable to the employer. The claimant voluntarily quit with good cause attributable to the employer. The claimant is eligible to receive unemployment insurance benefits.

DECISION:

The representative's July 29, 2014, decision (reference 02) is affirmed. The claimant voluntarily quit work with good cause attributable to the employer. The claimant is eligible to receive unemployment insurance benefits.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/pjs