

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KATHERINE A GIRAMONTI
Claimant

APPEAL NO. 08A-UI-08689-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WELLS FARGO BANK NA
Employer

OC: 08/24/08 R: 12
Claimant: Appellant (1)

Iowa Code Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Katherine Giramonti filed a timely appeal from the September 16, 2008, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on October 14, 2008. Ms. Giramonti participated. The employer representative was not available at the number the employer had provided for the hearing and did not participate.

ISSUE:

Whether the claimant's voluntary separation from the employer was for good cause attributable to the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Katherine Giramonti was employed by Wells Fargo Bank as a full-time Collector 3 in Urbandale, Iowa from January 3, 2005 until August 15, 2008. Ms. Giramonti's immediate supervisor was Don St. John. A few months before Ms. Giramonti separated from her position, she discussed with Mr. St. John the fact that her fiancé had relocated to California and her intent to follow her fiancé to California. Ms. Giramonti discussed with Mr. St. John the possibility of gaining employment with Wells Fargo Bank in California. The employer had a program that would allow Ms. Giramonti to "carry" her accrued vacation and other employee benefits, if she commenced new employment with Wells Fargo Bank within six months of leaving her position in Iowa. The employer's program was not a true transfer program, in that the employer did not have an understanding with Ms. Giramonti that a position would be waiting for her in California. Ms. Giramonti understood that she would have to go through an application process to obtain a new position in California. On July 30, 2008, Ms. Giramonti notified Mr. St. John that she would be leaving her position in two weeks to move to California. Ms. Giramonti's last day was August 15, 2008. Ms. Giramonti relocated to California. After Ms. Giramonti relocated to California, she learned that Wells Fargo Bank did not have any collections positions in the area where she lived. Ms. Giramonti has been unable to find work with Wells Fargo Bank in California and has not received any assistance from Wells Fargo Bank in obtaining a new position with the company.

REASONING AND CONCLUSIONS OF LAW:

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 requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 698, 612 (Iowa 1980) and Peck v. EAB, 492 N.W.2d 438 (Iowa App. 1992). 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. See 871 IAC 24.25.

Where a person voluntarily separates from employment to relocate to a new locality or to accompany a spouse to a new locality, the person is presumed to have voluntarily quit her employment without good cause attributable to the employer. See 871 IAC 24.25(2) and (10).

The greater weight of the evidence indicates that Ms. Giramonti voluntarily separated from her employment to relocate to California. The separation was in fact a quit, rather than a transfer. Ms. Giramonti had no agreement with the employer that a job would be waiting for her. Ms. Giramonti had only the promise that if she worked for the employer again within six months of her voluntary separation that she would be allowed to "carry" or maintain the vacation benefits she had accrued during her prior employment and other employee benefits she accrued during her prior employment.

The administrative law judge concludes that Ms. Giramonti voluntarily quit the employment without good cause attributable to the employer. Accordingly, Ms. Giramonti is disqualified for benefits until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. The employer's account shall not be charged for benefits paid to Ms. Giramonti.

DECISION:

The Agency representative's September 16, 2008, reference 01, decision is affirmed. The claimant voluntarily quit the employment without good cause attributable to the employer. The

claimant is disqualified for benefits until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. The employer's account shall not be charged.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/pjs