

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SHANNON FRAZIER
Claimant

APPEAL NO: 12A-UI-10520-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

MIDWEST OPPORTUNITIES INC
Employer

OC: 07-22-12
Claimant: Appellant (4)

Section 96.5-1 a – Voluntary Leaving – Other Employment

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the August 20, 2012, reference 01, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on September 27, 2012. The claimant participated in the hearing. Katrina Fleharty, Human Resources Director; Tami Snider, Site Supervisor; and Eleisca Clayton, House Operations Supervisor, participated in the hearing on behalf of the employer. The claimant was separated from her employer just prior to the fact-finding hearing in the leave of absence matter. The parties agreed to waive notice on the separation issue and allow the administrative law judge to make a decision on the separation issue.

ISSUE:

The issue is whether the claimant voluntarily left her employment to accept employment elsewhere.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a substitute residential trainer I for Midwest Opportunities from March 24, 2010 to August 17, 2012. The claimant was on family and medical leave (FML) from May 24, 2012 to August 18, 2012. She left her employment with Midwest Opportunities to accept other employment at Better Living Corporation and performed services for that employer. Continued work was available at Midwest Opportunities.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left her employment to accept employment elsewhere.

Iowa Code section 96.5-1-a 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. But the individual shall not be disqualified if the department finds that:

a. The individual left employment in good faith for the sole purpose of accepting other or better employment, which the individual did accept, and the individual performed services in the new employment. Benefits relating to wage credits earned with the employer that the individual has left shall be charged to the unemployment compensation fund. This paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

Even though the separation was without good cause attributable to the employer and would, standing alone, disqualify the claimant from receiving benefits, the claimant did leave in order to accept other employment and did perform services for the subsequent employer. Accordingly, benefits are allowed and the account of Midwest Opportunities shall not be charged.

DECISION:

The August 20, 2012, reference 01, decision is modified in favor of the appellant. The claimant voluntarily left her employment in order to accept other employment. Benefits are allowed, provided the claimant is otherwise eligible. The account of this employer shall not be charged.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/pjs