

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JENNIFER M LARSON
Claimant

MOSAIC
Employer

APPEAL NO. 09A-UI-00888-N

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 11/30/08 R: 01
Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Jennifer Larson filed an appeal from a representative's decision dated January 14, 2009, reference 01, that denied benefits based upon her separation from Mosaic. After due notice was issued, a hearing was held in Council Bluffs on February 10, 2009. Ms. Larson participated personally. The employer participated by Ms. Lynn Corbeil, attorney Johnson & Associates, and witnesses Mary Arndt, associate director, and Dennis South, program director. Claimant's Exhibit A and Employer's Exhibits One through Six were received into evidence.

ISSUE:

At issue in this matter is whether the claimant quit for good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered all the evidence in the record, finds: The claimant worked for this employer from March 5, 2001, until November 28, 2008, when she voluntarily quit employment for personal reasons. Ms. Larson held the position of direct support manager, managing one of two group homes operated by the employer for mentally disabled individuals.

On September 22, 2008, after returning from maternity leave, Ms. Larson indicated to the program director, Mr. South, that she wished to leave her position as direct support manager because it required on-call work and weekend work. Ms. Larson desired to assume the position of direct support associate, designed to assume a position that she thought was available working four hours per day Monday through Thursday. Mr. South indicated that he would consider the claimant's request. A number of positions were open within Mosaic and the employer had elected not to fill the four-day-per week, four-hour position, as the organization had determined that coverage could be obtained more efficiently through the use of other positions. Ms. Larson had agreed to stay beyond her effective leaving date of October 13, 2008, and to continue acting as a temporary direct support manager until that position could be filled. Subsequently, Ms. Larson was informed that the preferred four-hour-per-day, Monday-through-Thursday position would not be filled and the claimant was offered several alternative positions. Ms. Larson elected not to accept any alternative positions, because they may have required on-call work. The claimant set her last day of work as December 1, 2008, although she was aware that other positions were available. Her last day of work was November 28, 2008. Although Mr. South offered to meet with the claimant personally on December 10, 2008, to attempt to find a position for the claimant, Ms. Larson did not attend the meeting. In a final effort to offer the claimant an opportunity to remain with the employer in an alternative capacity, the employer sent Ms. Larson a letter on the following day, December 11, 2008, asking her to contact the program director or associate director by December 17, 2008, and

confirming that if the claimant did not do so, the employer would consider the claimant to have left voluntarily. Ms. Larson did not respond, as she had not picked up her mail for approximately 17 days.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence in the record establishes that Ms. Larson voluntarily quit her employment with good cause attributable to the employer. It does not. The evidence in the record establishes that the claimant, by her own request, resigned from the position of direct support manager at one of two of the facility's group homes. Although the claimant desired to then accept a preferred part-time position, the claimant was informed prior to the effective date of leaving that the preferred part-time position was not open and would not be filled. Although alternative positions were offered to the claimant, Ms. Larson declined for personal reasons, as she did not wish to accept any positions that required on-call work because of child care. In a final attempt to retain the claimant as an employee, the employer offered to personally meet with Ms. Larson and subsequently sent a letter to the claimant giving her an extended period of time to contact Mosaic management. The claimant did not attend the meeting nor respond to the letter, as she had not checked her post office box for a very extended period.

871 IAC 24.25(23) provides:

Voluntary quit without good cause. 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. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(23) The claimant left voluntarily due to family responsibilities or serious family needs.

For the reasons stated herein, the administrative law judge concludes that the claimant voluntarily quit employment without good cause attributable to the employer.

DECISION:

The representative's decision dated January 14, 2009, reference 01, is affirmed. The claimant voluntarily quit without good cause attributable to the employer. Unemployment insurance benefits are withheld until the claimant has worked in and been paid wages for insured work equal to ten times the claimant's weekly benefit amount, provided she is otherwise eligible.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

kjw/kjw