

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JENNIFER L HARMON
Claimant

APPEAL NO. 12A-UI-03260-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

NELLIS MANAGEMENT CO
Employer

OC: 02-12-12
Claimant: Appellant (4)

Iowa Code § 96.5(1)a – Voluntary Leaving/Other Employment

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the March 27, 2012, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on May 1, 2012. The claimant did participate. The employer did participate through Laura Armstrong, General Manager. Claimant's Exhibit A was entered and received into the record.

ISSUE:

Did the claimant voluntary quit her employment without good cause attributable to the employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a cashier part time beginning November 30, 2010 through October 18, 2011 when she voluntarily quit to accept employment as a care giver. The job she accepted turned out to be a scam being run on Craig's list and the claimant never actually worked for the new alleged employer. Continued work was available.

REASONING AND CONCLUSIONS OF LAW:

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

Iowa Code § 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.

871 IAC 24.28(5) provides:

Voluntary quit requalifications and previously adjudicated voluntary quit issues.

(5) The claimant shall be eligible for benefits even though the claimant voluntarily quit if the claimant left for the sole purpose of accepting an offer of other or better employment, which the claimant did accept, and from which the claimant is separated, before or after having started the new employment.

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 but was separated before having started the new employment. Accordingly, benefits are allowed and the account of the employer shall not be charged.

DECISION:

The March 27, 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 the employer (account number 011721) shall not be charged.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/css