

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BONNIE S KADERA
Claimant

APPEAL NO. 11A-UI-05285-VST

**ADMINISTRATIVE LAW JUDGE
DECISION**

RIVER BEND INDUSTRIES LLC
Employer

**OC: 03/20/11
Claimant: Appellant (2)**

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

The claimant filed an appeal from a representative's decision dated April 14, 2011, reference 01, which held the claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on May 13, 2011. Claimant participated. Employer failed to respond to the hearing notice and did not participate. The record consists of the testimony of Bonnie Kadera.

ISSUE:

Whether the claimant voluntarily left for good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witness and having considered all of the evidence in the record, makes the following findings of fact:

The claimant was employed as a floor person for the employer at its facility located in North Liberty, Iowa. The employer also had a plant located in Victor, Iowa. The claimant was informed in February 2011 that the North Liberty plant was being closed and the work would be transferred to the plant in Victor. The claimant was given an opportunity to transfer to Victor. This created a personal hardship for the claimant, as it increased her driving time and distance to work. The claimant had previously lived sixteen and one-half miles from work. The new job in Victor was approximately forty miles away.

The claimant was able to keep working at the North Liberty plant until March 18, 2011. The plant then closed. The claimant elected to resign due to the longer commute to and from work.

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.

871 IAC 24.26(20) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(20) The claimant left work voluntarily rather than accept a transfer to another locality that would have caused a considerable personal hardship.

A quit is a separation initiated by the employee. 871 IAC 24.1(113)(b). 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.

The evidence established that the claimant quit her job because her employer closed the plant she was working at in North Liberty, Iowa, and moved her job to Victor, Iowa. As a result, the claimant's commute time to and from work was increased, which was a significant personal hardship for her. Under these circumstances, the law considers the claimant to have voluntarily quit for good cause attributable to the employer. Benefits are allowed if the claimant is otherwise eligible.

DECISION:

The representative's decision dated March 20, 2011, reference 01, is reversed. Unemployment insurance benefits are allowed, provided the claimant is otherwise eligible.

Vicki L. Seeck
Administrative Law Judge

Decision Dated and Mailed

vls/kjw