

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

CANDICE P FRAZIER
Claimant

APPEAL NO. 20A-UI-06165-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

PRK WILLIAMS INC
Employer

OC: 02/02/20
Claimant: Appellant (1)

Iowa Code Section 96.5(1) – Voluntary Quit
Iowa Admin. Code r. 871-24.27 – Voluntary Quit from Part-time Employment

STATEMENT OF THE CASE:

Candice Frazier filed a timely appeal from the June 8, 2020, reference 02, decision that allowed benefits based on base period wages other than wages from this employer, provided she was otherwise eligible, but that removed wages from this employer from the claim until Ms. Frazier worked in and was paid wages for insured work equal to 10 times her weekly benefit amount. The decision also relieved this employer's account of liability for benefits. The deputy concluded that Ms. Frazier voluntarily quit on September 23, 2019, without good cause attributable to the employer. After due notice was issued, a hearing was held on July 17, 2020. Ms. Frazier participated. Cindi Leitheiser represented the employer and presented additional testimony through Tyler Jentz. The administrative law judge took official notice of the Agency's record of benefits disbursed to the claimant (DBRO AND KPYX) and received Exhibit A into evidence.

ISSUE:

Whether the claimant's voluntary quit was for good cause attributable to the employer.
Whether the quit was from part-time employment.
Whether the employer's account may be charged for benefits.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Candice Frazier was employed by PRK Williams, Inc., doing business as To The Rescue, as a part-time Direct Support Professional from August 2019 until September 23, 2019, when she voluntarily quit. Ms. Frazier's duties involved providing in-home support and assistance to four to five adult males with mental illness who resided together in a house. During Ms. Frazier's last shift, Ms. Frazier threatened one of the clients in her care by stating that she was going to have her brother come beat up the client and by stating that her brother had a gun. At some point during the interaction, the mentally-ill client used the n-word when referring to Ms. Frazier. A coworker reported the matter to housing coordinator, Christy Werning. Law enforcement responded to the home. Ms. Werning contacted Ms. Frazier while Ms. Frazier was still at the client's home. Ms. Werning directed Ms. Frazier to leave the home and to report to the office the following day.

to discuss the incident. Ms. Frazier said that would not work for her. Ms. Werning attempted to reach an agreement with Ms. Frazier regarding a time when Ms. Frazier could report to the office to discuss the matter, but Ms. Frazier would not commit to a time. The employer thereafter made repeated unsuccessful attempts to reach Ms. Frazier to discuss the incident. Ms. Frazier elected not to respond to those attempts and elected not to return to the employment. As part of its investigation of the incident, the employer interviewed the residents of the home, who confirmed that Ms. Frazier had threatened the mentally ill client.

Ms. Frazier established an original claim for benefits that was effective February 2, 2020 and an additional claim for benefits that was effective April 12, 2020. Iowa Workforce Development set Ms. Frazier's weekly benefit amount at \$302.00. PRK Williams, Inc. is a base period employer in connection with the claim. However, the bulk of Ms. Frazier's base period wage credits are from other employers.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5(1) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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.

Quits due to intolerable or detrimental working conditions are deemed to be for good cause attributable to the employer. See Iowa Administrative Code rule 871-24.26(4). The test is whether a reasonable person would have quit under the circumstances. See *Aalbers v. Iowa Department of Job Service*, 431 N.W.2d 330 (Iowa 1988) and *O'Brien v. Employment Appeal Bd.*, 494 N.W.2d 660 (1993). Aside from quits based on medical reasons, prior notification of the employer before a resignation for intolerable or detrimental working conditions is not required. See *Hy-Vee v. EAB*, 710 N.W.2d 213 (Iowa 2005).

An individual who voluntarily quits part-time employment without good cause attributable to the employer and who has not re-qualified for benefits by working in and being paid wages equal to 10 times her weekly benefit amount, but who nonetheless has sufficient other wage credits to be monetarily eligible for benefits, may receive reduced benefits based on the other base period wages, provided she meets all other eligibility requirements. See Iowa Admin. Code r. 871-24.27.

The evidence in the record establishes a voluntary quit on September 23, 2019 that was without good cause attributable to the employer. The weight of the evidence establishes that Ms. Frazier did indeed threaten the mentally ill client. The employer reasonably sent her home on that day and reasonably requested that she meet with the employer to discuss the matter. The mentally ill client's use of the n-word, while clearly inappropriate and racist, was part of an interaction that Ms. Frazier initiated and escalated. In the particular context, the client's

utterance did not rise to the level of intolerable and/or detrimental working conditions that would have prompted a reasonable person to leave the employment. Ms. Frazier is disqualified for benefits that are based on base period wages from this part-time employment until she has worked in and been paid wages for insured work equal to 10 times her weekly benefit amount. This employer's account will not be charged. Ms. Frazier remains eligible for benefits based on wages from other base period employment, provided she meets all other eligibility requirements.

This matter will be remanded to the Benefits Bureau for determination of the relevant reduced benefit amount. If the Benefits Bureau has already redetermined the claimant's reduced benefit eligibility, the Benefits Bureau may disregard the remand.

DECISION:

The June 8, 2020, reference 02, decision is affirmed. The claimant voluntarily quit this part-time employment effective September 23, 2020 without good cause attributable to the employer. The claimant is disqualified for benefits that are based on base period wages from this part-time employment until she has worked in and been paid wages for insured work equal to 10 times her weekly benefit amount, provided she meets all other eligibility requirements. This employer's account will not be charged. The claimant remains eligible for benefits based on wages from other base period employment, provided she meets all other eligibility requirements.

This matter is remanded to the Benefits Bureau for determination of the relevant reduced benefit amount. If the Benefits Bureau has already redetermined the claimant's reduced benefit eligibility, the Benefits Bureau may disregard the remand.

Note to Claimant: This decision determines you are not eligible for regular unemployment insurance benefits based on this part-time employment. If you disagree with this decision, you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision. *If this decision becomes final or if you are not eligible for Pandemic Unemployment Assistance (PUA), you will have an overpayment of benefits that you will be required to repay.* Individuals who do not qualify for regular unemployment insurance benefits due to disqualifying separations, but who are currently unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.



James E. Timberland
Administrative Law Judge

August 25, 2020
Decision Dated and Mailed

jet/sam