

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

STEPHANIE D GRAY
Claimant

APPEAL NO. 07A-UI-10467-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CHILDTIME CHILDCARE INC
Employer

**OC: 10/07/07 R: 02
Claimant: Respondent (1)**

Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Childtime Childcare, Inc., filed a timely appeal from the November 2, 2007, reference 01, decision that allowed benefits. After due notice was issued, a hearing was held on November 29, 2007. Claimant Stephanie Gray participated. Amy Hutt, Acting Center Director, represented the employer. The administrative law judge took official notice of the Agency's record of benefits disbursed to the claimant, which records indicate that the claimant has received no benefits in connection with the claim established on October 7, 2007. The administrative law judge also took official notice of the November 2, 2007, reference 02, decision that disqualified Ms. Gray for benefits in connection with the separation from another employer.

ISSUES:

Whether the claimant's voluntary quit was for good cause attributable to the employer.

Whether the claimant quit in response to intolerable and/or detrimental working conditions that would have prompted a reasonable person to quit the employment.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Stephanie Gray was employed by Childtime Childcare as a full-time assistant teacher from May 4, 2007 to May 22, 2007, when she voluntarily quit. Ms. Gray quit in response to the misbehavior of multiple four to five-year-old children in her care. One or more of the children would kick, spit, and call Ms. Gray names and engage in physical aggression against other children. One child in particular was identified as having behavioral issues before Ms. Gray started her employment and continued to act out aggressive behavior during Ms. Gray's brief employment. Prior to Ms. Gray's complaints, two other teachers had complained to the employer about the particular child. Prior to notifying the employer of her quit, Ms. Gray had twice gone to the employer with her concerns about the child. The employer had a philosophy of using only positive redirection to discipline misbehaving children and viewed the situation with the child primarily as a teacher training issue. The child's mother and aunt were employed by the childcare center and this may have been a factor in the child's ongoing and uncorrected misbehavior. On the day Ms. Gray

quit, the child spat on Ms. Gray. When Ms. Gray notified the Center Director Lori Gist of her quit and the reason for her quit, Ms. Gist indicated she understood Ms. Gray's decision.

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.

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 871 IAC 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 (Iowa 2005).

The greater weight of the evidence in the record establishes that Ms. Gray quit in response to intolerable and/or detrimental work conditions that would have prompted a reasonable person to quit the employment. Ms. Gray reasonably expected that the employer would take reasonable steps to protect its staff and the children in its care from harm. Ms. Gray reasonably refused to endure ongoing aggressive and offensive conduct perpetrated by one or more of the children in her care.

Ms. Gray's quit the employment for good cause attributable to the employer. Accordingly, Ms. Gray is eligible for benefits, provided she is otherwise eligible. The employer's account may be charged for benefits paid to Ms. Gray. The decision in this matter does not preempt or otherwise change the November 2, 2007, reference 02 decision, which disqualified Ms. Gray for benefits in connection with her separation from another employer.

DECISION:

The Agency representatives November 2, 2007, reference 01, decision is affirmed. The claimant voluntarily quit the employment for good cause attributable to the employer. The claimant is eligible for benefits, provided she is otherwise eligible. The employer's account may be charged for benefits paid to the claimant. The decision in this matter does not preempt or

otherwise change the November 2, 2007, reference 02 decision, which disqualified Ms. Gray for benefits in connection with her separation from another employer.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

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