

IOWA WORKFORCE DEVELOPMENT  
Unemployment Insurance Appeals Section  
1000 East Grand—Des Moines, Iowa 50319  
DECISION OF THE ADMINISTRATIVE LAW JUDGE  
68-0157 (7-97) – 3091078 - EI

MARY A CONKLIN  
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Appeal Number: 04A-UI-01184-S2T  
OC: 12/21/03 R: 01  
Claimant: Appellant (1)

**This Decision Shall Become Final**, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4<sup>th</sup> Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Mary Conklin (claimant) appealed a representative's January 26, 2004 decision (reference 01) that concluded she was not eligible to receive unemployment insurance benefits because she had voluntarily quit employment with Iowa State University Recruitment & Employment Office (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on February 25, 2004. The claimant was represented by Monty Fisher, Attorney at Law, and participated personally. The employer participated by John Lauridsen, Business Manager, and Lynette Seymour, General Manager. Marlene Burkheimer observed the hearing.

#### FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on October 15, 1997, as a full-time supervisor. The claimant was having marital problems confounded by abuse issues. The employer allowed the claimant time off from work from October 25 through November 5, 2003. The claimant was not able to return to work on November 5, 2003, because she was experiencing back pain. The employer told the claimant she could return to work on November 10, 2003.

On November 10, 2003, the claimant left a message for the employer indicating she would not be at work on that day. On November 11, 2003, the claimant spoke by telephone to her general manager and business manager. The claimant indicated she would be returning to work with Target Stores and wished to resign her position with the employer. The employer asked that the claimant put her resignation in writing for the employer's records. The employer and claimant discussed her insurance options. The three agreed to talk again the following morning regarding those insurance options. After the conversation was complete the employer contacted the business office and informed the business office that the claimant had resigned.

On November 12, 2003, the employer spoke with the claimant on the telephone. The claimant requested to withdraw her resignation. The employer indicated that the business office had already been notified. The claimant hung up on the employer. The three spoke again after the disconnection and discussed the claimant's insurance options. The claimant thought she could withdraw her resignation so long as her resignation was not in writing.

#### REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant voluntarily quit without good cause attributable to the employer. For the following reasons the administrative law judge concludes she did.

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 24.25(37) 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:

(37) The claimant will be considered to have left employment voluntarily when such claimant gave the employer notice of an intention to resign and the employer accepted such resignation. This rule shall also apply to the claimant who was employed by an

educational institution who has declined or refused to accept a new contract or reasonable assurance of work for a successive academic term or year and the offer of work was within the purview of the individual's training and experience.

A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980). The claimant's intention to voluntarily leave work was evidenced by her words and actions. She told the employer that she was leaving and quit work. When an employee gives notice of an intent to quit and the employer accepts the employee's resignation, her leaving is without good cause attributable to the employer. The claimant told the employer she was quitting and the employer accepted the claimant's resignation. Her leaving was without good cause attributable to the employer. The claimant voluntarily quit without good cause attributable to the employer. Benefits are denied.

DECISION:

The representative's January 26, 2004 decision (reference 01) is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until she has worked in and has been paid wages for insured work equal to ten times her weekly benefit amount provided she is otherwise eligible.

bas/kjf