

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

REBECCA SPATH

Claimant

APPEAL NO. 12A-UI-06595-W

**ADMINISTRATIVE LAW JUDGE
DECISION**

NORTHWEST IOWA HOSPITAL CORP

Employer

OC: 05/06/12

Claimant: Appellant (1)

Section 96.5(1) – Voluntary Quit
Section 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

The claimant, Rebecca Spath, appealed an unemployment insurance decision dated May 30, 2012, reference 01, that concluded that he had quit employment with the employer and failed to establish good cause attributable to the employer. An in-person hearing was held on September 27, 2012 in the Sioux City IowaWORKS office. The parties were properly notified about the hearing. The claimant participated along with her husband, Dale Spath. Jennifer Black, Fourth Floor Manager, participated in the hearing on behalf of the employer, Northwest Iowa Hospital Corp. Gary Johnson, H.R. Manager and Barb Caskey, H.R. Generalist, testified for the employer. Exhibit A and Exhibit 1 were admitted into evidence.

ISSUES:

The initial issue is who initiated the separation?

If the claimant quit, the issue is whether she quit with good cause attributable to the employer.

If the claimant was discharged, the issue is whether there is any other reason to disqualify.

FINDINGS OF FACT:

Rebecca Spath was employed by St. Luke's Regional Medical Center. She was a full-time Registered Nurse. She began employment in March 2005 and became an R.N. on September 22, 2008. The claimant told her supervisor that she was quitting on April 19, 2012. She was placed on a suspension pending investigation. On April 24, 2012, following a period of investigation, her resignation was accepted. The supervisor did not immediately accept her resignation because the claimant had a history of quitting and then coming back to work.

REASONING AND CONCLUSIONS OF LAW:

The initial and most important question raised in this case is the nature of the separation. The burden of proof is on the employer to prove the nature of the separation. This is extremely important because once the nature of the separation is determined the burden of proof may shift.

Separations are categorized into four separate categories under Iowa law.

24.1 (113) Separations. All terminations of employment, generally classifiable as layoffs, quits, discharges, or other separations.

a. Layoffs. A layoff is a suspension from pay status initiated by the employer without prejudice to the worker for such reasons as: lack of orders, model changeover, termination of seasonal or temporary employment, inventory-taking, introduction of labor-saving devices, plant breakdown, shortage of materials; including temporarily furloughed employees and employees placed on unpaid vacations.

b. Quits. A quit is a termination of employment initiated by the employee for any reason except mandatory retirement or transfer to another establishment of the same firm, or for service in the armed forces.

c. Discharge. A discharge is a termination of employment initiated by the employer for such reasons as incompetence, violation of rules, dishonesty, laziness, absenteeism, insubordination, failure to pass probationary period.

d. Other separations. Terminations of employment for military duty lasting or expected to last more than 30 calendar days, retirement, permanent disability, and failure to meet the physical standards required.

See Iowa Administrative Code 871—24.1.

If the employer initiated the separation, it is generally considered a discharge (or layoff). If the claimant initiated the separation, the separation is generally considered a “quit.” To voluntarily quit means a claimant exercises a voluntary choice between remaining employed or discontinuing the employment relationship and chooses to leave employment. Wills v. Employment Appeal Board, 447 N.W.2d 137, 138 (Iowa 1989).

In essence, this is a classic, she-said, she-said case. The claimant’s manager claimed that claimant quit on April 19, 2012. The claimant claims her manager terminated her following an investigation which began on April 19, 2012.

When all of the evidence is viewed as a whole, the greater weight of the evidence leads to a conclusion that the claimant was frustrated with her job. It was very stressful to her and she felt overwhelmed. On April 19, 2012, the claimant complained that she had too much work to do and the other nurses were not pulling their weight. The claimant expressed this frustration and told her supervisor, “You win. I quit.” The claimant apparently thought better of the decision later, however, she had already quit. Her claim that she did not intend to quit is not credible when viewing the record as a whole. In particular, she had a history of quitting and then attempting to change her mind. In fact, she had been warned for this behavior.

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 this matter, the evidence established that the claimant quit. She failed to demonstrate that her quit was for "good cause attributable to the employer." The reason the claimant quit was extreme frustration with her job and concerns about the management of her unit. Iowa is an at-will employment state, meaning absent a contract, the claimant is free to quit as she pleases. She is, however, not entitled to unemployment insurance benefits under these circumstances. See 871 Iowa Administrative Code section 24.25(21)-(22).

The claimant correctly points out that the employer's behavior was unusual by placing her on a leave of absence after she quit. It is, in fact, unusual to place an employee who has quit on a leave of absence pending investigation. This was reasonably explained in that the H.R. Manager was not in the office and the claimant had a history of quitting and then returning to work.

DECISION:

The unemployment insurance decision dated May 30, 2012, reference 01, is affirmed. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.

Joseph L. Walsh
Administrative Law Judge

Decision Dated and Mailed

jlw/pjs