

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JAMMIE LYNN B JAMIESON**  
Claimant

**APPEAL NO. 12A-UI-08444-VST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CARLETON LIFE SUPPORT SYSTEMS INC**  
Employer

**OC: 06/10/12**  
**Claimant: Appellant (2)**

Section 96.5-1 – Voluntary Quit

**STATEMENT OF THE CASE:**

The claimant filed an appeal from a decision of a representative dated July 3, 2012, reference 01, which held that the claimant was ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on September 12, 2012. The claimant participated personally. The claimant was represented by Heather Carlson, attorney at law. The employer participated by Deb Herman, human resources manager and facility security. The employer was represented by Jeff Wright, attorney at law. The record consists of the testimony of Jammie Jamieson; the testimony of Deb Herman; and Employer's Exhibits 1, 2, 3, and 5. Exhibit 4 was not received into evidence.

**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 witnesses and having considered all of the evidence in the record, makes the following findings of fact:

The employer is an aerospace and defense contractor. The claimant was hired on July 6, 2009, as a full-time contract administrator. The claimant's last day of work was sometime in March 2012. She went on Family Medical Leave Act (FMLA) leave in March 2012 due to complications with her pregnancy. The claimant's FMLA leave expired on May 1, 2012. The claimant was still not able to return to work. She could not tell her employer when she would be able to work, as she did not have an appointment with her physician until June 1, 2012. The employer set a final deadline of May 31, 2012. The claimant thought she was terminated because she could not respond to the employer's request for a return to work date. The final separation was on June 5, 2012.

**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.

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.

Where an employee did not voluntarily quit but was terminated while absent under medical care, the employee is allowed benefits and is not required to return to the employer and offer services pursuant to the subsection d exception of Iowa Code section 96.5(1). *Prairie Ridge Addiction Treatment Svcs. v. Jackson and EAB*, \_\_\_ N.W.2d \_\_\_, No. 11-0784 (Iowa Ct. App. Jan. 19, 2012).

The evidence in this case established that the claimant was terminated by the employer while she was absent under medical care. The claimant did not abandon her job, nor did she quit her job. She was unable, by the employer's deadline of May 31, 2012, to provide her employer with a return to work date. She reasonably assumed that she had been terminated because of her inability to provide a return to work date. Under Iowa law, this is not a voluntary quit. Benefits are therefore allowed if the claimant is otherwise eligible.

**DECISION:**

The representative's decision dated July 3, 2012, reference 01, is reversed. Unemployment insurance benefits are allowed, provided the claimant is otherwise eligible.

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Vicki L. Seeck  
Administrative Law Judge

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Decision Dated and Mailed

vls/kjw