IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS

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

MELISSA D SEGEBART
Claimant

BRADFORD CHILD CARE SERVICES
Employer

APPEAL NO. 12A-UI-03941-JTT

ADMINISTRATIVE LAW JUDGE DECISION

OC: 03/04/12
Claimant: Respondent (1)

Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

The employer filed a timely appeal from the April 2, 2012, reference 01, decision that allowed benefits. After due notice was issued, a hearing was held on May 1, 2012. Claimant Melissa Segebart participated and presented additional testimony through Amy Hagerty. Scott Trahan of People Systems represented the employer and presented testimony through Jennifer Girdler. Exhibit One was received into evidence.

ISSUE:

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

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The employer operates a preschool/daycare. Melissa Segebart was employed by Bradford Child Care Services as a full-time lead teacher from 2010 until March 4, 2012, when she voluntarily quit. Jennifer Girdler was the Director. Ms. Segebart quit the employment in response to the employer's failure to take appropriate steps to address a particular four-year-old boy's behavioral issues and in response to having to work outside of Department of Human Services mandated child care ratios.

The child in question was prone to acts of violence directed at staff and other students. The employer had no established work rule or protocol for dealing with such behavior. The child was also prone to regular emotional meltdowns and tantrums. Ms. Segebart sought assistance from the Director and Assistant Director to address the child's behavior while it was occurring. The child's behavior demanded Ms. Segebart's attention and took her away from her duties relating to the several other children under her care and supervision. The Director and Assistant Director would often find reason not to make themselves available to address or assist with the highly disruptive situation. The employer also forewent addressing the child's behavior or underlying issues with the child's family in any meaningful manner. Due to the situation with this child, and due to the employer's frequent failure to provide appropriate staffing, Ms. Segebart was regularly required to work outside of DHS mandated staffing ratios, which

ration was supposed to limit her to supervising 12 students unless another staff member was available to assist her.

Despite the challenging circumstances, Ms. Segebart stayed with the employer until she thought she had other employment lined up. That other employment ended up falling through. On March 4, 2012, Ms. Segebart submitted a written resignation that indicated she was quitting effective March 16, 2012. Ms. Segebart referenced her stress level and a limit to her patience. Ms. Segebart ended up not returning to the employment after a period of vacation that was to end March 8, 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.

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 evidence in the record indicates that the employer was negligent in failing to consistently staff within DHS-mandated ratios, in failing to have an established protocol to address child behavioral issues, and failing to take meaningful and consistent steps to address the violent and disruptive behavior of the four-year-old child in question. The employer's negligence created work conditions that were both intolerable and detrimental to Ms. Segebart. The working conditions would have prompted a reasonable person to leave the employment.

Ms. Segebart voluntarily quit the employment for good cause attributable to the employer. Accordingly, Ms. Segebart is eligible for benefits, provided she is otherwise eligible. The employer's account may be charged for benefits paid to Ms. Segebart.

DECISION:

The Agency representative's April 2, 2012, reference 01, decision is affirmed. The claimant 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.

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James E. Timberland
Administrative Law Judge

_____
Decision Dated and Mailed

jet/kjw