

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

POUKIB K KOMBATE
Claimant

APPEAL NO. 18A-UI-06638-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

STAFF MANAGEMENT SOLUTIONS LLC
Employer

OC: 05/20/18
Claimant: Appellant (4R)

Iowa Code Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Poukib Kombate filed a timely appeal from the June 13, 2018, reference 01, decision that disqualified her for benefits and that relieved the employer's account of liability for benefits, based on the Benefits Bureau deputy's conclusion that Ms. Kombate voluntarily quit on May 13, 2018 without good cause attributable to the employer. After due notice was issued, a hearing was held on July 3, 2018. Ms. Kombate participated and presented additional testimony through Paghkonn Kombate. Susan Murphy represented the employer. French-English interpreter Marie Montas of CTS Language Link assisted with the hearing. Exhibit A was received into evidence.

ISSUE:

Whether Ms. Kombate separated from her employment with Staff Management Solutions.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Poukib Kombate began full-time employment with Staff Management Solutions in July 2017. Her full-time work hours were 2:00 p.m. to 10:00 p.m., Monday through Friday, with Saturday overtime as needed. In December 2017, Ms. Kombate took a leave of absence from the employment so that she could travel outside the United States. In February 2018, Ms. Kombate returned to the same full-time employment.

Effective May 20, 2018, Ms. Kombate voluntarily reduced her work availability so that she was no longer available for full-time work. However, the employer continued to have the same full-time work available for Ms. Kombate. Ms. Kombate reduced her work availability because she had commenced full-time nursing studies. Ms. Kombate completed a work availability form that restricted her work availability to Friday 2:00 p.m. to 6:00 p.m. or 10:00 p.m. and Saturday, 10:00 a.m. to 2:00 p.m.

Ms. Kombate established an original claim for unemployment insurance benefits that was effective May 20, 2018. At the time Ms. Kombate established her claim for benefits, she was still employed by Staff Management Solutions, L.L.C. at the Proctor & Gamble plant in Iowa

City. Ms. Kombate continues to be employed by Staff Management Solutions under the part-time conditions that she sought in May 2018.

REASONING AND CONCLUSIONS OF LAW:

Workforce Development rule 871 IAC 24.1(113) provides as follows:

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 laborsaving 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.

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.

Iowa Code section 96.5(1) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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.

There has been no separation from the employment and, therefore, no voluntary quit. The June 13, 2018, reference 01, decision that concluded Ms. Kombate had voluntarily quit was entered in error and hereby vacated.

This matter will be remanded to the Benefits Bureau for determination of whether Ms. Kombate has been available for work and/or partially unemployed within the meaning of the law since she established the original claim that was effective May 20, 2018.

DECISION:

The June 13, 2018, reference 01, decision is vacated. The claimant has not separated from the employment. This matter is remanded to the Benefits Bureau for determination of whether Ms. Kombate has been available for work and/or partially unemployed within the meaning of the law since she established the original claim that was effective May 20, 2018.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/rvs