

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

INGRID J COBB

Claimant

APPEAL NO. 09A-UI-10434-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

THE UNIVERSITY OF IOWA

Employer

**Original Claim: 06/14/09
Claimant: Appellant (4-R)**

Iowa Code section 96.5(1) – Voluntary Quit
871 IAC 24.27 – Voluntary Quit of Part-time Employment

STATEMENT OF THE CASE:

Ingrid Cobb filed a timely appeal from the July 15, 2009, reference 01, decision that denied benefits. After due notice was issued, a hearing commenced on August 7, 2009 and concluded on August 25, 2009. Ms. Cobb participated. Human Resources Specialist David Bergeon represented the employer and presented testimony through Darla Carter, Assistant Nurse Manager, and Sue Kaprich, Nurse Manager. Exhibit One was received into evidence.

ISSUES:

Whether Ms. Cobb voluntarily quit or was discharged from the employment. The administrative law judge concludes that Ms. Cobb voluntarily quit.

Whether Ms. Cobb's voluntary quit was for good cause attributable to the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Ingrid Cobb was employed by the University of Iowa Hospitals and Clinics as a medical assistant. Ms. Cobb commenced the employment in June 2008 in the Ophthalmology Clinic, where she worked full-time.

In January 2009, Ms. Cobb transferred to the Pediatric Specialties Clinic. Sue Kaprich, Nurse Manager, was Ms. Cobb's immediate supervisor. Ms. Cobb's duties centered on checking in patients for appointments. The employer expected Ms. Cobb to check in 20 to 30 patients each day. The check-in process included escorting patients to examination rooms.

Ms. Cobb suffers from diabetes. Ms. Cobb must take breaks at work to monitor her blood glucose and to take medications. Ms. Cobb must schedule her lunch break at a time that will allow her to regulate her blood glucose.

Ms. Cobb and the Pediatric Specialties Clinic staff experienced adjustment issues at the beginning of Ms. Cobb's work in that clinic. The issues centered on how best to accommodate

Ms. Cobb's medical issues in the context of the busy medical clinic. The matter culminated in a February 12, 2009 broadcast e-mail message from Ms. Kaprich to the clinic staff. The purpose of the e-mail was to ensure that Ms. Cobb's medical condition would be appropriately accommodated. Ms. Kaprich obtained Ms. Cobb's approval before sending the e-mail. The e-mail put all staff on notice of Ms. Cobb's medically-based need for a short break in the morning, need for a 40-minute lunch break to commence between 11:30 a.m. and noon, and need for a break two hours after lunch. The e-mail authorized additional breaks and indicated that if Ms. Cobb needed additional breaks, she would notify the charge nurse at the beginning and end of such breaks.

After the February 12, 2009 e-mail, Ms. Cobb still found it difficult to step away from the business of the clinic to take needed breaks. When Ms. Cobb approached Ms. Kaprich with further concerns about stepping away from her duties to take her breaks, Ms. Kaprich reinforced that Ms. Cobb merely needed to alert the charge nurse of her need for a break and report back to the charge nurse when she was done with the break. The Pediatric Specialties Clinic staff did not hinder Ms. Cobb from taking necessary breaks. However, Ms. Cobb found it difficult to keep up with her assigned duties.

Ms. Cobb's medical condition required frequent doctor appointments. Ms. Cobb was also pregnant toward the end of the employment. Ms. Cobb was unable to schedule her medical appointments outside of her 8:30 a.m.-to-5:00 p.m., full-time work hours. On March 29, 2009, Ms. Cobb and the employer agreed to a part-time work schedule to accommodate Ms. Cobb's frequent doctor appointments. Ms. Cobb's work hours changed to 9:00 a.m. to 3:00 p.m., Monday through Friday. Ms. Cobb continued in the part-time hours until the end of the employment.

On May 21, 2009, Ms. Kaprich met with Ms. Cobb to issue a performance reprimand and to impose a one-day suspension to occur on May 22. Ms. Cobb was not performing sufficient work in the time allotted to satisfy the employer's expectations. The employer's progressive discipline policy required two additional disciplinary steps before Ms. Cobb could be discharged from the employment.

Later in her shift on May 21, in response to the reprimand and out of concern that she would ultimately be discharged from the employment, Ms. Cobb delivered a written resignation to Ms. Kaprich. Ms. Cobb placed one copy of the resignation letter on Ms. Kaprich's desk and hand-delivered another copy to Ms. Kaprich. The resignation letter indicated that Ms. Cobb would be resigning effective two weeks from May 21, 2009. The resignation letter did not provide a reason for the resignation. Ms. Kaprich took the resignation letter at face value and took appropriate steps to notify the employer's human resources department of the resignation and the need for a replacement employee.

On May 27, Ms. Cobb left another letter on Ms. Kaprich's desk. This letter said that Ms. Cobb had decided to retract her resignation and continue in the employment. Ms. Kaprich conferred with the employer's human resources department and then notified Ms. Cobb that the employer had decided against allowing Ms. Cobb to rescind her resignation. Ms. Cobb worked out her two-week notice period and separated from the employment on June 4, 2009. Ms. Cobb completed a separation form that indicated she had quit the employment to pursue other employment opportunities.

REASONING AND CONCLUSIONS OF LAW:

A discharge is a termination of employment initiated by the employer for such reasons as incompetence, violation of rules, dishonesty, laziness, absenteeism, insubordination, or failure to pass a probationary period. 871 IAC 24.1(113)(c). 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.

An employee 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. 871 IAC 24.25(37).

Where an employee voluntarily quits in response to a reprimand, the employee is presumed to have quit without good cause attributable to the employer. See 871 IAC 24.25(28).

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.

The weight of the evidence in the record indicates that Ms. Cobb voluntarily quit the employment in response to the reprimand the employer issued to her on May 21, 2009. The employer's conduct after the resignation letter was accepted, and before Ms. Cobb attempted to retract the resignation letter, indicated acceptance of the resignation. The employer was not obligated to allow Ms. Cobb to rescind her resignation once the employer had accepted the resignation. Ms. Cobb's voluntary quit was without good cause attributable to the employer. Accordingly, Ms. Cobb is disqualified for benefits based on wage credits earned through the employment with the University of Iowa until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. The employer's account shall not be charged for benefits paid to Ms. Cobb.

An individual who voluntarily quits part-time employment without good cause attributable to the employer and who has not re-qualified for benefits by earning ten times her weekly benefit amount in wages for insured employment, but who nonetheless has sufficient other wage credits to be eligible for benefits, may receive reduced benefits based on the other base period wages. See 871 IAC 24.27. In other words, because the employment was part-time at the time Ms. Cobb separated from the employment, Ms. Cobb would still be eligible for benefits based on other base period employment, provided she is otherwise eligible.

This matter will be remanded to the Claims Division for determination of Ms. Cobb's eligibility for reduced benefits based on base period wage credits from employment other than the University of Iowa.

DECISION:

The Agency representatives July 15, 2009, reference 01, decision is modified as follows. The claimant voluntarily quit part-time employment without good cause attributable to the employer. The claimant is disqualified for benefits based on base period wage credits earned through employment at the University of Iowa until she has worked in a been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. The employer's account shall not be charged. Because the employment was part-time, the claimant is eligible for benefits based on base period wage credits from other employment, provided she is otherwise eligible.

The matter is remanded to the Claims Division for determination of the claimant's eligibility for reduced benefits based on base period wage credits from employment other than the University of Iowa.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

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