

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

SARA J MILLS
Claimant

**FOUR OAKS FAMILY AND CHILDRENS
SERVICES**
Employer

APPEAL NO. 21A-UI-17394-JT-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 05/23/21
Claimant: Respondent (2R)

Iowa Code Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

The employer filed a timely appeal from the July 27, 2021, reference 01, decision that allowed benefits to the claimant, provided she was otherwise eligible, and that held the employer's account could be charged for benefits, based on the deputy's conclusion that the claimant was discharged on May 6, 2021 for not disqualifying reason. After due notice was issued, a hearing was held on September 29, 2021. Claimant, Sara Mills, participated. Ted Valencia of Equifax represented the employer and presented testimony through Stephanie Antonelli. The administrative law judge took official notice of the Agency's record of benefits disbursed to the claimant and received Exhibits 1 and 2 into evidence.

ISSUE:

Whether the claimant'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: The claimant, Sara Mills, was employed as a full-time Functional Family Specialist (therapist) from July 2019 until May 2021. The claimant's work involved meeting with juveniles with behavioral issues and their families to provide court-ordered counseling. The juveniles would typically be recently released from a juvenile detention facilities

On April 5, 2021, the claimant met with a newly assigned 16-year-old client and his mother via video-conference. During the meeting, the claimant was trying to engage with the client. During the meeting, the client called the claimant a "fucking bitch." The claimant was upset by the utterance and subsequently told her supervisor, Dawn Culley, Program Coordinator, that the client needed to be "staffed." The claimant wanted the client reassigned to a different Functional Family Specialist. The employer declined to reassign the client and told the claimant that she needed to continue to work with the client, which the claimant asserts meant that she would need to meet with the client at his home. When the claimant met with a client and the client's family, she would usually do so unaccompanied. If the claimant felt it necessary, the claimant could summon the police. The claimant could also meet with the client and the client's

family in a neutral public space, such as the public library. The claimant could also bring the juvenile's behavioral issues to the attention of the juvenile probation officer, who would decide whether it was appropriate to proceed with or discontinue counseling services.

On April 14, 2021, the claimant commenced a weeklong vacation. On April 21, 2021, the claimant returned from vacation. On April 21, 2021 the claimant sent written notice to the employer that her last day in the employment would be May 21, 2021. The claimant did not provide a basis for her decision to leave the employment. The claimant had enrolled in graduate coursework toward obtaining a master's degree. On April 26, 2021, the claimant began online graduate coursework towards a master's degree. The claimant subsequently quit the online coursework on May 10, 2021.

The employer and the claimant disagree about the date on which the claimant last performed work for the employer. The employer cites April 30, 2021 as the last date for which the employer has evidence that the claimant completed work on behalf of the employer. The claimant asserts she was still performing work on May 12, 2021 and that she had been in contact with Ms. Cully on May 4, May 6, and May 12, 2021. However, on May 4, 2021, Ms. Culley notified Stephanie Antonelli, Human Resources Talent Manager, that Ms. Culley was unable to make contact with or receive a response from the claimant. Ms. Antonelli then made her own unsuccessful attempt to contact the claimant and received no response. On May 10, 2021, Ms. Antonelli sent a letter to the claimant that referenced the claimant's failure to respond to the several attempts to reach her. The letter asserted the claimant had been absent without notice on May 4, 5 and 6. Even though the letter invited the claimant to call her supervisor, human resources staff, or Ms. Antonelli, the claimant elected not to make contact.

The claimant cites two other negative experiences as factors in her decision to submit her resignation. In September 2020, the claimant felt unsafe meeting with a client in his home subsequent to the claimant's months-long stay in a detention facility. The claimant brought her concerns to the attention of the juvenile probation officer, who discontinued the counseling services. In March 2020, a client's dog bit the claimant during an in-home meeting. The claimant finished the meeting, then went to the emergency room. The claimant spoke with Ms. Culley, who stated the family would need to secure the dog during future in-home appointments. The claimant returned to the home for additional appointments and the family secured the dog.

The claimant elected not to bring any of her concerns to the attention of the employer's human resources personnel. The claimant cites a distrust of human resources personnel that is based not on her experience in this employment, but based on her experience in an earlier, unrelated experience.

REASONING AND CONCLUSIONS OF LAW:

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.

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 Iowa Admin. Code r. 871-24.26(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 establishes a voluntary quit without good cause attributable to the employer. On April 21, 2021, the claimant provided notice she would be quitting the employment effective. Five days later, the claimant started working on her master's degree coursework. The weight of the evidence supports the employer's assertion that the claimant did not perform work beyond April 30, 2021 and that the claimant was thereafter non-responsive. The evidence establishes the claimant moved up the effective date of her quit to April 30, 2021. The evidence does not establish intolerable and/or detrimental conditions that would have prompted a reasonable person to leave the employment. The essence of the claimant's job was working with behaviorally disordered juvenile. The mere fact that a juvenile demonstrated inappropriate behavior would not provide a good cause basis to leave the employment. The claimant had tools at her disposal to manage the situation, whether that was involving the juvenile probation officer, having law enforcement accompany her and/or meeting with the client in a neutral environment. The prior concern with the client was a similar nature with the same tools available. The incident with the dog was an isolated incident that easily resolved. The weight of the evidence establishes the claimant quit because she simply did not like the nature of the work she was hired to perform. Because the voluntarily quit was without good cause attributable to the employer, the claimant is disqualified for benefits until she has worked in and been paid wages for insured work equal to 10 times her weekly benefit amount. The claimant must meet all other eligibility requirements. The employer's account shall not be charged for benefits paid to the claimant for the period following the entry date of this decision.

The unemployment insurance law requires benefits be recovered from a claimant who receives benefits and is later denied benefits even if the claimant acted in good faith and was not at fault. However, a claimant will not have to repay an overpayment when an initial decision to award benefits on an employment separation issue is reversed on appeal if two conditions are met: (1) the claimant did not receive the benefits due to fraud or willful misrepresentation, and (2) the employer failed to participate in the initial proceeding that awarded benefits. In addition, if a claimant is not required to repay an overpayment because the employer failed to participate in the initial proceeding, the employer will be charged for the overpaid benefits. Iowa Code § 96.3(7)(a) and (b).

The matter of deciding the amount of the overpayment and whether the amount overpaid should be recovered from the claimant or charged to the employer under Iowa Code § 96.3(7)(b) is remanded to the Benefits Bureau.

DECISION:

The July 27, 2021, reference 01, decision is reversed. The claimant voluntarily quit the employment without good cause attributable to the employer. The quit was effective April 30, 2021. The claimant is disqualified for benefits until she has worked in and been paid wages for insured work equal to 10 times her weekly benefit amount. The claimant must meet all other eligibility requirements. The employer's account shall not be charged for benefits paid to the claimant for the period following the entry date of this decision.

REMAND:

The matter of deciding the amount of the overpayment and whether the amount overpaid should be recovered from the claimant or charged to the employer under Iowa Code § 96.3(7)(b) is remanded to the Benefits Bureau.



James E. Timberland
Administrative Law Judge

November 29, 2021
Decision Dated and Mailed

jet/kmj