

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

VON M KARDOUDI
Claimant

APPEAL NO. 11A-UI-03552-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

REM IOWA COMMUNITY SERVICES INC
Employer

**OC: 01/30/11
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:

Von Kardoudi filed a timely appeal from the March 11, 2011, reference 02, decision that denied benefits. After due notice was issued, a hearing was held on April 12, 2011. Abby Patterson represented the employer and presented additional testimony through Kelly Tench. Ms. Kardoudi was aware of the hearing, but did not comply with the hearing notice instructions to provide a telephone number for the hearing. On March 29, 2011, Ms. Kardoudi had contacted the administrative law judge to discuss possible withdrawal of her appeal. But that conversation had ended with the understanding that Ms. Kardoudi would take appropriate steps to participate in the hearing. Exhibit One was received into evidence.

ISSUE:

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

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The employer is a social services agency that provides services to brain-injured and otherwise disabled individuals. Von Kardoudi was employed as a Direct Support Professional from July 1, 2010, until January 4, 2011, when she voluntarily quit the employment. Ms. Kardoudi performed her work in the residence where clients resided. Ms. Kardoudi started as a full-time employee and remained a full-time employee until December 1, 2010, when she reduced her work hours in connection with a voluntary transfer to another residence. Ms. Kardoudi had requested the transfer based on a personality conflict with her immediate supervisor and based on her belief there was mold in the residence that presented a health hazard. The employer investigated the mold issue and concluded the concern was unfounded. The employer desired to work through the personality conflict issues between Ms. Kardoudi and her immediate supervisor, but Ms. Kardoudi refused to continue working with the supervisor. At the time Ms. Kardoudi transferred to the part-time position, the employer had other full-time positions available for her.

Ms. Kardoudi's January 4, 2011 voluntary quit was preceded by a discussion with Program Coordinator Kelly Tench on December 30, 2010. The employer had learned that Ms. Kardoudi

was refusing to take clients out into the community for appropriate activities. The employer had also learned that Ms. Kardoudi had mentioned to the guardian of a client that she was thinking about quitting the employment. The employer was concerned that Ms. Kardoudi had engaged in an inappropriate discussion with the guardian by not minding appropriate personal-professional boundaries. The meeting on December 30 was not intended by the employer to be disciplinary in nature, but was intended to provide guidance to Ms. Kardoudi.

At the time of the December 30 discussion, Ms. Kardoudi stood by her refusal and cited the price of gasoline as the basis for her refusal. While Ms. Kardoudi was expected to use her private vehicle for such outings, the employer reimbursed her 37 cents per mile.

On January 4, 2011, Ms. Kardoudi left a voice mail message for Mr. Tench, indicating that she was resigning effective immediately. Mr. Tench attempted to reach Ms. Kardoudi by telephone and left a voice mail message asking for the reason for the resignation and a return call. The employer did not hear back from Ms. Kardoudi.

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).

On the other hand, a voluntary quit prompted by dissatisfaction with the work environment, a personality conflict with a supervisor, or in response to a reprimand, is presumed to be without good cause attributable to the employer. See 871 IAC 24.25(21), (22) and (28).

Ms. Kardoudi failed to participate in the hearing and thereby failed to present any evidence to support the allegation that her voluntary quit was for good cause attributable to the employer. The evidence in the record is limited to the evidence presented by the employer. The weight of the evidence establishes that Ms. Kardoudi voluntarily quit for personal reasons and not for good cause attributable to the employer. The weight of the evidence establishes that the employer's expectation that Ms. Kardoudi transport clients for community activities, with appropriate compensation for use of her personal vehicle, was not unreasonable or a change in the conditions of the employment. The weight of the evidence indicates that the employer's

concerns about Ms. Kardoudi's discussion with the guardian, and the employer's decision to address those concerns with Ms. Kardoudi, were also reasonable. The weight of the evidence fails to establish anything about the employment that amount to an intolerable or detrimental working condition that would have prompted a reasonable person to leave the employment. Essentially, Ms. Kardoudi voluntarily quit due to dissatisfaction with the work environment.

Because Ms. Kardoudi's voluntarily quit was without good cause attributable to the employer. Ms. Kardoudi is disqualified for benefits *based on wage credits earned through this employment* 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. Kardoudi.

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.

Because the employment was *part time* during the final month and at the time Ms. Kardoudi quit, Ms. Kardoudi remains eligible for *reduced* benefits based on base period wage credits from *other* employers, provided she meets all other eligibility requirements. This matter will be remanded to the Claims Division for redetermination of Ms. Kardoudi's eligibility for reduced benefits based on base period wage credits earned through employment other than Rem Iowa Community Services, Inc.

The remand to the Claims Division should also address whether the claimant has met the work availability requirements of Iowa Code section 96.4(3) since she established her claim for benefits.

DECISION:

The Agency representative's March 11, 2011, reference 02, 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 wage credits earned through this employment* 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. The claimant remains eligible for *reduced* benefits based on base period wage credits from *other* employers, provided she meets all other eligibility requirements.

This matter is remanded to the Claims Division for redetermination of the claimant's eligibility for reduced benefits based on base period wage credits earned through employment other than Rem Iowa Community Services, Inc.

This matter is remanded to the Claims Division for determination of whether the claimant has met the work availability requirements of Iowa Code section 96.4(3) since she established her claim for benefits.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/css