

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CINDY S SARGENT
Claimant

APPEAL NO: 11A-UI-12747-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CARE INITIATIVES
Employer

OC: 09/04/11
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quit

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's September 22, 2011 determination (reference 01) that disqualified her from receiving benefits and held the employer's account exempt from charge because she had voluntarily quit her employment for reasons that do not qualify her to receive benefits. The claimant participated in the hearing with her witness, Kay Pedersen. David Williams represented the employer. Kristi Schubert, administrator, and Joanne Stodden, the director of nursing, testified on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is not qualified to receive benefits.

ISSUE:

Did the claimant voluntarily quit her employment for reasons that qualify her to receive benefits, or did the employer discharge her for reasons constituting work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer in March 2010. The claimant worked as a part-time LPN.

The employer received some complaints about the claimant's negative attitude at work. On August 24, the employer talked to the claimant about her negative attitude. At the August 24 discussion, the employer had a corrective action form for the claimant to sign. The corrective action form stated the claimant was receiving a verbal warning. After the claimant indicated she was looking for other work, the employer asked if she wanted to immediately resign. The claimant informed the employer that she would not resign when she did not have another job. After learning why the claimant may have appeared negative at work, the employer took steps to resolve the issues claimant had with co-workers. The employer asked the claimant to complete a training video in Schubert's office. Stodden and Schubert left when the claimant started watching the training video on Schubert's computer.

A short time later, employees asked why the claimant had stomped out of work before the end of her shift. The claimant did not punch out. The claimant did not call or report to work again because she concluded the employer did not want her at work or as an employee any longer.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quits employment without good cause or the employer discharges her for reasons constituting work-connected misconduct. Iowa Code §§ 96.5(1), (2)a. The facts do not establish that the employer discharged or even intended to discharge the claimant on August 24, 2011. The claimant quit when she left work early on August 24 and did not return. When a claimant quits, she has the burden to establish she quit for reasons that qualify her to receive benefits. Iowa Code § 96.6(2).

The law presumes a claimant quits without good cause when she leaves after being reprimanded. 871 IAC 24.25(28). On August 24, the employer gave the claimant a documented verbal warning. Since this was the first warning the claimant received, her job was not in jeopardy.

The employer did not know why the claimant had a poor attitude at work. Since employees complained about her attitude, the employer wanted to address this issue immediately so residents and their families would not pick up on the claimant's negative attitude. During the August 24 conversation the claimant was upset and perceived the employer comments differently than what the employer intended. Even though the employer told the claimant she could resign if she was not happy working for the employer, the employer did not demand or want the claimant's resignation. After the employer believed the claimant understood all she had to do was to keep her negative attitude outside the workplace, the claimant then left work early on August 24 without telling anyone. She did not return to work again. Even if the claimant was still too upset to perform the rest of her work that day, she quit when she failed to report to work or notify the employer anytime after August 24. The evidence indicates she quit after the employer gave her a verbal reprimand that she did not believe was justified. The claimant did not establish that she quit for reasons that qualify her to receive benefits. As of September 4, 2011, the claimant is not qualified to receive benefits.

DECISION:

The representative's September 22, 2011 determination (reference 01) is affirmed. The claimant voluntarily quit her employment for reasons that do not qualify her to receive benefits. The claimant is disqualified from receiving unemployment insurance benefits as of September 4, 2011. This disqualification continues until she has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The employer's account will not be charged.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css