

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

HEATHER A COOK
Claimant

APPEAL NO. 13A-UI-07839-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

MIDWEST PROFESSIONAL STAFFING LLC
Employer

OC: 02/24/13
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed an appeal from the June 21, 2013, (reference 02) unemployment insurance decision that denied benefits. After due notice was issued, a hearing was held on August 12, 2013. Claimant participated. Employer participated through Karena Steir, Administrative Manager.

ISSUE:

Did the claimant voluntarily quit her employment without good cause attributable to the employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was last assigned to work at Aviva full time as a claims intake administrator beginning on April 22, 2013 through May 24, 2013 when she voluntarily quit her employment. The claimant had been warned about her poor attendance and knew that it was placing her job in jeopardy. The claimant knew that if she was going to miss work she had to report her absence to her employer. Prior to her employment ending the claimant had demonstrated an ability to properly report her absence from work. The claimant had been given a final warning about her attendance. No one from the employer's business ever told the claimant she was discharged. The claimant decided to stop reporting for work after May 27, 2013 and to stop calling into work on May 30, 2013 because she believed she would be discharged for missing work on May 28 and 29. Continued work was available for the claimant.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was not discharged but voluntarily left the employment without good cause attributable to the employer.

Iowa Code § 96.5-2-a provides:

An individual shall be disqualified for benefits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:

a. The individual shall be disqualified for benefits until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

Iowa Code § 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.

A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980). The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2) (amended 1998). Generally, when an individual mistakenly believes they are discharged from employment, but was not told so by the employer, and they discontinue reporting for work, the separation is considered a quit without good cause attributable to the employer.

Since claimant did not follow up with management personnel and her assumption of having been fired was erroneous, claimant's failure to continue reporting to work was an abandonment of her job. Benefits are denied.

DECISION:

The June 21, 2013, (reference 02) decision is affirmed. The claimant voluntarily left employment without good cause attributable to the employer. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/css