

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

HOLLEY M GARCIA
Claimant

APPEAL NO. 10A-UI-02709-VST

**ADMINISTRATIVE LAW JUDGE
DECISION**

ALAN ENTERPRISES LTD
Employer

OC: 01/24/10
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated February 11, 2010, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on March 25, 2010. Employer participated by Alan Ellis, Owner. Claimant failed to respond to the hearing notice and did not participate. The record consists of the testimony of Alan Ellis.

ISSUE:

Whether the claimant voluntarily left for good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witness and having considered all of the evidence in the record, makes the following findings of fact:

The employer is a commercial flooring installation business. The claimant was hired on June 15, 2004. She started doing measurements and progressed to the job of estimator. On January 22, 2010, the owner, Alan Ellis, talked to the claimant about her interactions with installers. He asked her to stop berating the installers. He did not terminate the claimant. Mr. Ellis then left as he was going to Belize for a vacation with his wife. After he left, the claimant started cleaning out her desk and informed other members of the staff that she was quitting. She did not return to work. Work was available for her at the time she quit.

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.

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.

The evidence is uncontroverted that it was the claimant who initiated the separation of employment. She did not participate in the hearing and her reasons for quitting are unknown. She apparently became upset after Mr. Ellis talked to her about how she interacted with the installers. He did not terminate her. She elected to clean out her desk and leave her job. At the time she left, she was in the middle of a job for the employer. Work was available for her. The claimant's actions indicate her intention to sever the employer/employee relationship. No good cause for her quitting was established. Benefits are denied.

DECISION:

The decision of the representative dated February 11, 2010, reference 01, is affirmed. Unemployment insurance benefits are allowed, provided claimant is otherwise eligible.

Vicki L. Seeck
Administrative Law Judge

Decision Dated and Mailed

vls/css