

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CINDY L LUGSCH-LONG
Claimant

APPEAL NO. 08A-UI-08071-LT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TRANSITIONAL SERVICES OF IOWA INC
Employer

**OC: 08/03/08 R: 01
Claimant: Appellant (1)**

Iowa Code § 96.5(1) – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the August 29, 2008, reference 01, decision that denied benefits. After due notice was issued, a telephone conference hearing was held on September 24, 2008. Claimant participated. Employer participated through Darin Dunn, Dana Flint and Pam Ingraham.

ISSUE:

The issue is whether claimant quit the employment without good cause attributable to the employer.

FINDINGS OF FACT:

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: Claimant was employed as a full time in home social worker from November 2005 until August 8, 2008. Her last day of work was July 2, 2008 when she was placed on an unpaid suspension from July 2 through July 15 pending a State of Iowa investigation. Employer expected her to contact Dunn or Ingraham on July 16 but did not tell her that specifically. She had incomplete client case documentation that employer expected her to finish and submit that was due prior to the suspension and she did complete a report that was due July 4 but she did not complete the overdue documentation, report to work or otherwise communicate with employer on July 16. Paperwork must be complete to be paid for the service rendered and she was docked pay for July 1 and 2 but was told she would be paid the remainder when she got her paperwork done. Her supervisor, Flint, sent e-mails from home to claimant on July 6, 9, 14 and 26 and left several phone messages on her home phone. Although Flint did not know the status of her job when claimant asked for information and did not specifically tell claimant to speak to Ingraham or Dunn, claimant did not attempt to initiate that contact either until about July 31 when claimant called Dunn while he was driving while on vacation. He agreed to have Ingraham contact her and urged her to contact Ingraham herself. Each time she communicated with employer about her job status she was told to complete the case file documentation. Ingraham sent claimant a certified letter on August 4 saying she was supposed to have reported on July 30, 31 and August 1, 2008 but had failed to do so. Ingraham instructed her to report by August 8 or employer would consider her to have quit the

employment. She received the letter on August 7 and did not report or communicate with employer or submit the tardy case file documentation. Continued work would have been available had she contacted employer. Had she returned, her job would have been in a different capacity (not working directly with clients) depending on whether there was a confirmed abuse report. She received the founded abuse report on August 7 and has since appealed that determination.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left her employment without good cause attributable to the employer.

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.

871 IAC 24.25(27) provides:

Voluntary quit without good cause. 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 from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code § 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code § 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

- (27) The claimant left rather than perform the assigned work as instructed.

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). Since claimant failed to return to work after the conclusion of her suspension on July 16 through August 8 and never completed the tardy documentation as requested, she is considered to have voluntarily left the employment without good cause attributable to the employer. Benefits are denied.

DECISION:

The August 29, 2008, reference 01, decision is affirmed. The claimant voluntarily left her 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.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/css