

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JENNIFER M CROOKS
Claimant

APPEAL NO. 20A-UI-12305-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**FOUR OAKS FAMILY AND CHILDREN'S
SERVICES**
Employer

OC: 08/02/20
Claimant: Appellant (1)

Iowa Code Section 96.5(1)(d) – Voluntary Quit

STATEMENT OF THE CASE:

Jennifer Crooks filed a timely appeal from the September 21, 2020, reference 01, decision that disqualified her for benefits and that stated the employer's account would not be charged for benefits, based on the deputy's conclusion that Ms. Crooks voluntarily quit on August 2, 2020 without good cause attributable to the employer. After due notice was issued, a hearing was held on December 4, 2020. Ms. Crooks participated. Jennifer Groenwold of Equifax represented the employer and presented testimony through Stephanie Antonelli and Mia Masteller. Employer witness Susan Brooks was sworn, but was not called upon to testify. Exhibit A was received into evidence.

ISSUE:

Whether Ms. Crooks' voluntary quit was for good cause attributable to the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Jennifer Crooks has been employed by Four Oaks Family and Children's Service during three distinct periods. The most recent period of employment began in 2018 and ended on July 31, 2020, when Ms. Crooks voluntarily quit the employment. Until June 2019, Ms. Crooks worked as a full-time youth counselor. Ms. Crooks applied for and was promoted to the full-time position of Care Manager toward the end of June 2019 and continued in that position until her separation date. Ms. Crooks generally had a case load of sixty clients. She generally worked 8:00 a.m. to about 5:00 p.m., depending on client needs. Ms. Crooks work days were Monday through Friday. Toward the end of the employment, Ms. Crooks was spearheading the establishment of an adult services program in northern Iowa. Ms. Crooks found her ongoing duties challenging, but budgetary concerns prevented the employer from hiring additional Care Managers.

When the COVID-19 pandemic arrived in Iowa in March 2020, the employer discontinued in-person client contact and transitioned to client contact by telephone or videoconference. After the pandemic arrived, it was not uncommon for Ms. Crooks to come in contact with persons wearing masks intended to prevent the spread of COVID-19. Due to the COVID-19 pandemic,

the employer allowed Ms. Crooks and other employees to telecommute from home. Ms. Crooks prefers warmer climates and even worked from Florida for a week.

In April 2020, a colleague went on a brief leave of absence due to the death of a family member. While the colleague was on leave, Ms. Crooks and other colleagues had to absorb the colleagues duties, which temporarily increased Ms. Crooks' workload by 10 to 15 clients. Because the employer had transitioned to away from in-person client contact, the temporary addition of 10 to 15 clients meant Ms. Crooks had to make 10 to 15 additional phone calls. While Ms. Crooks cites the increased caseload as a factor in her decision to leave the employment at the end of July 2020, the absent colleague returned to work in April 2020 and Ms. Crooks' caseload returned to its normal level in April.

In June 2020, Ms. Crooks started mental health therapy and began with her therapist to process a past non-work related traumatic experience. During this time, Ms. Crooks was experiencing substantial personal distress that prompted her to conclude that she was no longer able to effectively perform her Care Manager duties. Ms. Crooks and her therapist agreed that it was necessary for Ms. Crooks to separate from her work duties in order for Ms. Crooks to process her personal trauma issues and work to improve her mental health.

On June 16, 2020, Ms. Crooks sent a text message to her supervisor, Program Coordinator Mia Masteller, in which Ms. Crooks stated she would be leaving the employment. Ms. Crooks did not include a separation date in the email. Based on prior remarks made by Ms. Crooks, the employer was on notice that Ms. Crooks would be leaving the employment at some point in the foreseeable future. Ms. Crooks had earlier advised the employer that she would be leaving the employment no later than the end of September or in October 2020. Ms. Crooks told the employer that she did not wish to spend another winter in Iowa and wanted to relocate to a warmer climate. Ms. Crooks had also advised colleagues of her plan to travel after her impending separation from the employment. The COVID-19 pandemic became a factor in Ms. Crooks planned relocation and travel plans.

On June 17, 2020, Ms. Crooks and Ms. Masteller met to discuss Ms. Crooks' voluntary transition out of the employment. Ms. Crooks spoke to Ms. Masteller regarding her personal trauma and the recovery process she had begun through therapy. Ms. Crooks told Ms. Masteller that her therapist had recommended that she leave the employment. Ms. Crooks waived on whether she thought she could continue in the employment beyond the end of June 2020, but agreed to stay through the end of July 2020, to ensure a smooth transition for her assigned clients. The parties agreed that Ms. Crooks would work from home or from the office as she desired.

Ms. Crooks subsequently submitted a request for intermittent leave under the Family and Medical Leave Act (FMLA) based on her mental health issues. The employer approved the FMLA request. The FMLA request and approval did not specify the frequency or length of time Ms. Crooks would need to be away from her duties. Ms. Crooks and Ms. Masteller agreed to a flexible schedule, whereby Ms. Crooks would work two to three days week, according to her desire and ability. During one week in July, Ms. Crooks was feeling somewhat better and increased her workdays to four. While Ms. Crooks was in leave status, the employer on rare occasion contacted Ms. Crooks with a question as was necessary, but these contacts were minimal. The employer did not require that Ms. Crooks remain on-call when she was in leave status.

Ms. Crooks worked to the end the July 31, 2020 end of the agreed-upon notice period and then voluntarily separated from the employment. The employer continued to have work available for

Ms. Crooks at the time of the voluntary separation. Ms. Crooks did not relocate to a warmer climate and did attempt to return to the employment after the separation.

REASONING AND CONCLUSIONS OF LAW:

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).

Iowa Code section 96.5(1)(f) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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. But the individual shall not be disqualified if the department finds that:

f. The individual left the employing unit for not to exceed ten working days, or such additional time as may be allowed by the individual's employer, for compelling personal reasons, if so found by the department, and prior to such leaving had informed the individual's employer of such compelling personal reasons, and immediately after such compelling personal reasons ceased to exist the individual returned to the individual's employer and offered the individual's services and the individual's regular or comparable work was not available, provided the individual is otherwise eligible; except that during the time the individual is away from the individual's work because of the continuance of such compelling personal reasons, the individual shall not be eligible for benefits.

Iowa Admin. Code r. 871-24.25(20) echoes the statute as follows:

The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(20) The claimant left for compelling personal reasons; however, the period of absence exceeded ten working days.

Iowa Code section 96.5(1)(d) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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. But the individual shall not be disqualified if the department finds that:

d. The individual left employment because of illness, injury or pregnancy upon the advice of a licensed and practicing physician, and upon knowledge of the necessity for absence immediately notified the employer, or the employer consented to the absence, and after recovering from the illness, injury or pregnancy, when recovery was certified by a licensed and practicing physician, the individual returned to the employer and offered to perform services and the

individual's regular work or comparable suitable work was not available, if so found by the department, provided the individual is otherwise eligible.

Iowa Administrative Code rule 817-24.26(6) echoes the statute as follows:

Separation because of illness, injury, or pregnancy.

a. Nonemployment related separation. The claimant left because of illness, injury or pregnancy upon the advice of a licensed and practicing physician. Upon recovery, when recovery was certified by a licensed and practicing physician, the claimant returned and offered to perform services to the employer, but no suitable, comparable work was available. Recovery is defined as the ability of the claimant to perform all of the duties of the previous employment.

b. Employment related separation. The claimant was compelled to leave employment because of an illness, injury, or allergy condition that was attributable to the employment. Factors and circumstances directly connected with the employment which caused or aggravated the illness, injury, allergy, or disease to the employee which made it impossible for the employee to continue in employment because of serious danger to the employee's health may be held to be an involuntary termination of employment and constitute good cause attributable to the employer. The claimant will be eligible for benefits if compelled to leave employment as a result of an injury suffered on the job.

In order to be eligible under this paragraph "b" an individual must present competent evidence showing adequate health reasons to justify termination; before quitting have informed the employer of the work-related health problem and inform the employer that the individual intends to quit unless the problem is corrected or the individual is reasonably accommodated. Reasonable accommodation includes other comparable work which is not injurious to the claimant's health and for which the claimant must remain available.

Iowa Admin. Code r. 871-24.25(33) provides:

The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(33) The claimant left because such claimant felt that the job performance was not to the satisfaction of the employer; provided, the employer had not requested the claimant to leave and continued work was available.

The evidence in the record establishes a July 31, 2020 voluntary quit that was without good cause attributable to the employer. While Ms. Crooks concluded that she could no longer perform her work duties to her satisfaction or to meet the needs of the employers or clients, the employer had not requested that she leave and had continued work available. The quit was based on a non-work related mental health issue. The quit was for compelling personal reasons, but the separation lasted more than 10 working days. The quit was based on the advice of a licensed mental health professional, but was not based on the advice of a licensed and practicing physician. While the administrative law judge empathizes with Ms. Crooks' post-trauma mental health struggles, the weight of the evidence does not support her implied assertion that the public safety measure of wearing of protective face masks caused or aggravated Ms. Crooks non-work related mental health issues, or made it necessary for her to separate from the employment, especially in light of the telecommuting arrangement. In any event, the employer remained ready and willing to accommodate reasonable requests for accommodations and did not deny any request for accommodation. Because the quit was without good cause attributable to the employer, the employer's account will not be charged.

Because the voluntary quit was without good cause attributable to the employer, the quit disqualifies Ms. Crooks for benefits until she has worked in and been paid wages for insured work equal to 10 times her weekly benefit amount. Ms. Crooks must meet all other eligibility requirements.

DECISION:

The September 21, 2020, reference 01, decision is affirmed. The claimant voluntarily quit the employment without good cause attributable to the employer. The quit was effective July 31, 2020. The claimant is disqualified for benefits until she has worked in a been paid wages for insured work equal to 10 times her weekly benefit amount. The claimant must meet all other eligibility requirements. The employer's account shall not be charged.



James E. Timberland
Administrative Law Judge

December 14, 2020
Decision Dated and Mailed

jet/scn