

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JILLIAN SPENCER-KASEL
Claimant

APPEAL NO: 08A-UI-03706-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MERCY HOSPITAL
Employer

OC: 03/16/08 R: 02
Claimant: Appellant (5)

Iowa Code § 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Jillian Spencer-Kasel (claimant) appealed an unemployment insurance decision dated April 8, 2008, reference 01, which held that she was not eligible for unemployment insurance benefits because she was discharged from Mercy Hospital (employer) for work-related misconduct. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on May 1, 2008. The claimant participated in the hearing. The employer participated through Eddie Brown, Employee Relations/Compliance Coordinator. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

The issue is whether the employer discharged the claimant for work-connected misconduct.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired as a full-time facilities and support representative on March 31, 1997. She was taken off work due to a non-work-related medical condition on August 24, 2007. The claimant was approved for 12 weeks of leave under the Family Medical Leave Act (FMLA). She was released to return to work on November 3, 2007 but opted to quit her employment. She contends she notified the employer's health services employees to give notice but the employer had no record of her notice. The claimant's FMLA expired on approximately November 16 2007. The employer had not heard from her so sent a letter on November 28, 2007 which advised her she had been transferred to the health services cost center. The employer advised the claimant she had until December 6, 2007 to provide an update of her medical condition. The employer never heard from the claimant.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant's voluntary separation from employment qualifies her to receive unemployment insurance benefits. She is not qualified to receive unemployment

insurance benefits if she voluntarily quit without good cause attributable to the employer. Iowa Code § 96.5-1.

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980) and Peck v. Employment Appeal Bd., 492 N.W.2d 438 (Iowa Ct. App. 1992). The claimant demonstrated her intent to quit and acted to carry it out when she failed to return to work after her non-work-related leave of absence.

It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify her. Iowa Code § 96.6-2. She has not satisfied that burden and benefits are denied.

DECISION:

The unemployment insurance decision dated April 8, 2008, reference 01, is modified with no effect. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until she has worked in and has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/pjs