

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MARY A OLDHAM
Claimant

APPEAL NO: 14A-UI-10330-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

APPLEWHITE DENTAL LLC
Employer

OC: 09/07/14
Claimant: Appellant (2)

Iowa Code § 96.5(1) – Voluntary Quit

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's September 24, 2014 determination (reference 01) that disqualified her from receiving benefits and held the employer's account exempt from charge because she voluntarily quit this employment for reasons that do not qualify her to receive benefits. The claimant participated at the October 22 hearing. Amy Breitfelder, the human resource director, appeared on the employer's behalf. During the hearing, Claimant Exhibits A and B were offered and admitted as evidence. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is qualified to receive benefits.

ISSUE:

Did the claimant voluntarily quit her employment for reasons that qualify her to receive benefits?

FINDINGS OF FACT:

The claimant started working for the employer on May 1, 2014. She worked as a full-time office manager. The claimant worked in an office with three or four employees. Dr. S. was dentist at this office.

On August 12 a patient came in for a consultation. The patient wanted an implant done by the time her dental insurance ended at the end of the month. Dr. S. examined the patient and told the patient the dental treatment she needed could be completed by August 31.

The patient came in for services on August 21 with the plan a tooth would be extracted and an implant would be done that day. The patient's tooth was extracted but an implant could not be completed that day because of the extent of an infection. Dr. S. hoped the implant could still be completed by the end of August. Dr. S. told the claimant on August 21 to bill the patient for the extraction and the implant. Co-workers heard Dr. S. telling the claimant to post charge for services that had been completed that day. (Claimant Exhibits A and B.) The claimant did not believe it was ethical to bill a patient for services that had not yet been performed. As a result of the patient's infection, the implant could not be completed by August 31.

The claimant hoped Dr. S. would inform the patient that her insurance company would not be billed for the implant until the implant was actually completed, but he did not. Even though the

charges for services had not yet been sent to the insurance company, the claimant believed Dr. S. asked the claimant to commit insurance fraud by charging the claimant for services she had not received.

On September 8, the claimant told Dr. S. that she had removed the charges for the implant because the claimant would not commit insurance fraud. Dr. S. made a comment that the patient would be upset about the extra charges and it was the claimant's responsibility to contact the patient and inform her that because the implant had not been done by the end of the month the patient would be responsible for extra charges that the insurance company would not be paying. Dr. S. concluded the claimant was upset when he told her that she had to talk to the patient. The claimant believed Dr. S. was angry at her for removing the implant charge that had not yet been done. When the claimant left Dr. S.'s office, she told him that she did not feel well.

The claimant went home after talking to Dr. S. because she did not feel well. Later that day she informed the employer's director of operation, Mike Murphy, and Breitfelder she was quitting effective immediately because Dr. S. asked her to commit insurance fraud by telling her to charge a patient for services that had not been performed.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quits employment without good cause attributable to the employer. Iowa Code § 96.5(1). When a claimant quits, she has the burden to establish she quit for reasons that qualify her to receive benefits. Iowa Code § 96.6(2).

If the claimant was asked to bill a patient for services that had not yet been provided, under 871 IAC 24.26(1), she established she quit for reasons that qualify her to receive benefits. The problem in this case is that Dr. S. did not participate at the hearing. His September 17 statement was read into the record, but since he did not testify at the hearing his written statement is hearsay information that the employer relied upon, but is not supported by any other evidence. The claimant's testimony is credible and conflicts with Dr. S.'s September 17 written statement. While Claimant Exhibits A and B support the claimant's testimony, these written statements also amount to hearsay information. Since the employer did not present evidence that rebutted the claimant's testimony, the claimant established she quit for reasons that qualify her to receive benefits. As of September 7 2014, the claimant is qualified to receive benefits.

DECISION:

The representative's September 24, 2014 determination (reference 01) is reversed. The claimant voluntarily quit her employment for reasons that qualify her to receive benefits. As of September 7, 2014, the claimant is qualified to receive benefits, provided she meets all other eligibility requirements. The employer's account is subject to charge.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css