

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

STACY L CRILL

Claimant

APPEAL NO. 22A-UI-00512-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

THE UNIVERSITY OF IOWA

Employer

OC: 10/17/21

Claimant: Appellant (1)

Iowa Code Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

The claimant, Stacy Crill, filed a timely appeal from the November 16, 2021, reference 01, decision that disqualified her for benefits and that held the employer's account would not be charged for benefits, based on the deputy's conclusion the claimant voluntarily quit on October 4, 2021 without good cause attributable to the employer. After due notice was issued, a hearing was held on January 26, 2022. Claimant participated. The employer did not participate. The employer did not comply with the hearing notice instructions to call the designated toll-free number at the start of the hearing. Exhibit A was received into evidence.

ISSUE:

Whether the claimant was laid off, discharged for misconduct in connection with the employment, or voluntary quit without good cause attributable to the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed by The University of Iowa as a full-time Pediatric Nurse Practitioner in the Child Health Specialty Clinic from 2018 until October 4, 2021. The Child Health Specialty Clinic is a grant-funded program that provides "gap-filling" services. The program provides care to developmentally disabled children, including children on the autism spectrum and those with attention deficit hyperactivity disorder (ADHD). The claimant performed her duties at a clinic in Ottumwa. Dr. Jessie Marks, M.D. supervises the University of Iowa Child Health Specialty Clinic and was the claimant's immediate supervisor.

At the claimant's March 2021 evaluation, the claimant expressed concern that the behavioral guidelines the clinic used when deciding whether and what medicine to prescribe were more than 10 years old. The claimant had completed her studies more recently, was aware of updated guidelines, and desired to practice according to those guidelines. A psychiatrist affiliated with the clinic supervised medication prescribing. The claimant believed the psychiatrist, a person older than the claimant, was unaware of newer available medications.

On June 24, 2021, Dr. Marks placed the claimant on a performance improvement plan (PIP). Prior to being placed on the PIP, the claimant's performance evaluations had rated the claimant's work performance as above expectations. The employer placed the claimant on the PIP after the employer became concerned that the claimant may not have provided correct treatment to two pediatric patients. The employer told the claimant that the employer planned to have another professional review the patient records to determine whether the claimant had been negligent in the performance of her duties. At the time Dr. Marks placed the claimant on the performance improvement plan, Dr. Marks advised the claimant that failure to abide by the PIP could lead to additional discipline up to and including discharge from the employment.

After Dr. Marks placed the claimant on the PIP, she periodically met with the claimant to review the claimant's performance and whether the claimant was fulfilling expectations set forth in the PIP. Early in the review process, Dr. Marks commented that the claimant was abiding by the PIP.

On September 30, 2021, Dr. Marks told the claimant that the claimant was not abiding by the PIP. Dr. Marks directed the claimant to cease seeing patients. Dr. Marks told the claimant that she would follow up with the claimant the following week to discuss the way forward, including whether the claimant would be allowed to continue in the employment. The claimant spoke with a human resources representative who recommended the claimant contact a University of Iowa ombudsperson to discuss her concerns.

On October 1, 2021, the claimant spoke with an ombudsperson regarding the circumstances of her employment. The ombudsperson contacted University of Iowa human resources personnel to discuss the claimant's circumstances. The ombudsperson then spoke again with the claimant. The ombudsperson told the claimant that it might be better for the claimant to quit the employment, rather than face potential discharge from the employment. The ombudsperson and the claimant discussed that the nurse practitioner position at The University of Iowa was the claimant's first position as a nurse practitioner and the potential long-term consequences to the claimant's career if she were to be discharged from that employment.

Neither Dr. Marks nor anyone else at The University of Iowa with the authority to discharge the claimant from the employment ever notified the claimant she was being discharged from the employment.

At 8:30 a.m. on October 4, 2021, the claimant sent a cursory resignation email to Dr. Marks. The claimant wrote only that she was ending her employment with the clinic as of October 4, 2021.

In light of Dr. Marks' directive to discontinue seeing patients, the claimant did not report to the clinic on Monday, October 4, 2021. The claimant was prepared to return her work notebook computer and name badge, but had those items at home. At about 10:00 a.m. on October 4, 2021, a human resources representative contacted the claimant and directed her to report to the workplace with her notebook computer and name badge. The claimant understood the human resources representative had driven from Iowa City to Ottumwa that morning. The claimant thought the trip would take two hours, which the claimant interprets to mean the human resources representative was on her way to discharge the claimant at the time the claimant submitted her resignation. However, the trip from Iowa City may have taken closer to 1.5 hours. The claimant promptly complied with the directive to report to the clinic. The human resources representative met the claimant outside the clinic, received the equipment, and wished the claimant well. The human resources representative did not say anything about the employer discharging the claimant or intending to discharge the claimant.

REASONING AND CONCLUSIONS OF LAW:

A discharge is a termination of employment initiated by the employer for such reasons as incompetence, violation of rules, dishonesty, laziness, absenteeism, insubordination, or failure to pass a probationary period. Iowa Administrative Code rule 871-24.1(113)(c). A quit is a separation initiated by the employee. Iowa Administrative Code rule 871-24.1(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 Iowa Administrative Code rule 871-24.25.

Iowa Code section 96.5(1) 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.

Where a claimant quits in response to a reprimand, the quit is presumed to be without good cause attributable to the employer. Iowa Admin. Code r. 871-24.25(28) provides:

Iowa Administrative Code Rule 871-24.26(21) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

- (21) The claimant was compelled to resign when given the choice of resigning or being discharged. This shall not be considered a voluntary leaving.

In analyzing quits in lieu of discharge, the administrative law judge considers whether the evidence establishes misconduct that would disqualify the claimant for unemployment insurance benefits.

The weight of the evidence in the record establishes a voluntary quit without good cause attributable to the employer. The weight of the evidence establishes that the claimant voluntarily quit in anticipation of a reprimand that may or may not have included a decision to discharge the claimant from the employment. The claimant's resignation preempted that discussion regarding discipline. The employer, meaning the claimant's supervisor or anyone else with authority to terminate the employment, never presented the claimant with the choice of resigning or being discharged. This is not a quit in lieu of discharge within the meaning of the unemployment insurance law. Rather, the claimant weighed her options and decided it would be best for her future employment prospects and career to voluntarily separate from the employment rather than face the possibility of being discharged from the employment. The claimant is disqualified for benefits until she has worked in and 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.

DECISION:

The November 16, 2021, reference 01, decision is affirmed. The claimant voluntarily quit the employment on October 4, 2021 without good cause attributable to the employer. The claimant is disqualified for benefits until she has worked in and 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.

A handwritten signature in black ink that reads "James E. Timberland". The signature is written in a cursive, flowing style.

James E. Timberland
Administrative Law Judge

February 17, 2022
Decision Dated and Mailed

jet/scn