

In the days leading up to Ms. Miller's separation from the employment, Ms. Miller's son was being treated for substance abuse and mental health issues at the Jackson Recovery Center in Sioux City. Ms. Miller's son had recently attempted suicide. Employee Manager Matt Chase had met with Ms. Miller at the time of her initial request for time off to deal with her son's issues. Mr. Chase advised Ms. Miller at that time that she need not worry about her job being in jeopardy due to her need to attend to her son's condition and that she would be allowed time off to deal with those issues. Ms. Miller was absent from work on July 26-28, 2005, and called in sick on those days pursuant to the employer's attendance policy. Ms. Miller returned to work on July 29. On July 29, Ms. Miller advised her immediate supervisor, Lila Nelson, that August 29 would be her last day. Ms. Miller locked her assigned tools in her assigned work locker. Ms. Miller left no personal effects at the workplace. Though it is the employer's practice to complete an exit interview, no exit interview took place in connection with Ms. Miller's separation from the employment.

Ms. Miller did not return to work on August 1 or thereafter. The employer continued to have the same work available for Ms. Miller. Ms. Miller did not have direct contact with the employer with regard to returning to the employment. At some point, Ms. Miller contacted her union steward, who advised Ms. Miller that the employer had posted her position for applications on August 1. Pursuant to the collective bargaining agreement that governed Ms. Miller's employment, Ms. Miller and/or the union had the right to file a grievance in the event that Ms. Miller had been discharged and believed she had been wrongfully discharged. The grievance process would allow Ms. Miller the opportunity to force the employer to reinstate her to her position. If the union or Ms. Miller had filed a grievance, the opening would not have been posted for applications until the grievance was resolved. Neither Ms. Miller nor the union filed a grievance in connection with her separation from the employment.

#### REASONING AND CONCLUSIONS OF LAW:

The evidence presented by the parties was limited to the testimony of Ms. Miller, the testimony of Mr. Chase, and the written statement executed by Ms. Miller's immediate supervisor. Ms. Miller did not present the testimony of her union steward she asserts took steps to assist her in regaining her employment. The employer did not present testimony from Lila Nelson, who was Ms. Miller's immediate supervisor. Neither party presented testimony from Human Resources Representative Jim Hammer, the employer representative whom Ms. Miller asserts her union steward contacted in an attempt to regain her job.

The first issue to be addressed is whether the evidence in the record establishes that Ms. Miller voluntarily quit the employment or was discharged.

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).

The weight of the evidence in the record establishes that Ms. Miller announced to her supervisor her intention to quit the employment. The evidence further establishes that Ms. Miller carried out the intention to sever the employment relationship by ceasing to report for work or make contact with the employer thereafter. Ms. Miller voluntarily quit the employment and was not discharged by the employer.

The remaining question is whether the evidence in the record establishes that the quit was for good cause attributable to the employer. It does not.

Quits due to compelling personal reasons are presumed to be without good cause attributable to the employer where the period of absence exceeds ten days. See 871 IAC 24.25(20). In this case, Ms. Miller had compelling personal reasons for needing to be away from the employment. Her absence from the employment exceeded ten working days, since Ms. Miller never returned to the employer.

Based on the evidence in the record and application of the appropriate law, the administrative law judge concludes that the quit was without good cause attributable to the employer. Accordingly, Ms. Miller is disqualified for benefits until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount. The employer's account shall not be charged for benefits paid to Ms. Miller.

DECISION:

The Agency representative's decision dated September 13, 2005, reference 01, is affirmed. The claimant's quit was 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 ten times her weekly benefit amount. The employer's account shall not be charged for benefits paid to the claimant.

jt/pjs