

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MARTIA Y PHILLIPS
Claimant

APPEAL NO. 13A-UI-09407-VST

**ADMINISTRATIVE LAW JUDGE
DECISION**

A TO Z CORPORATION
Employer

OC: 07/14/13
Claimant: Respondent (2R)

Section 96.5-1 – Voluntary Quit
Section 96.3-7-b – Overpayment of Benefits

STATEMENT OF THE CASE:

The employer filed an appeal from a representative's decision dated August 8, 2013, reference 01, which held that the claimant was eligible for unemployment insurance benefits. After due notice, a hearing was held on October 1, 2013, by telephone conference call. The claimant participated personally. The employer participated by Kristine York, executive director; Megan Kopsa, on-site director; and Linda DeBower, program coordinator. The record consists of the testimony of Martia Phillips; the testimony of Kristine York; the testimony of Megan Kopsa; the testimony of Linda DeBower; and Employer's Exhibits 1-4. Official notice is taken of agency records.

ISSUES:

Whether the claimant voluntarily left for good cause attributable to the employer;
Whether the claimant has been overpaid unemployment insurance benefits; and
Whether the employer participated in the fact finding.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witnesses and having considered all of the evidence in the record, makes the following findings of fact:

The employer is a daycare provider. The claimant was hired in November 2011, as a full-time teacher. Her last day of work was July 12, 2013. The claimant voluntarily quit her job on July 12, 2013.

The reason that the claimant quit her job was due to what she called "stress." No physician or other health care provider recommended that she quit her job. The claimant became upset on July 12, 2013, because she thought she had too many children to supervise on the playground. The claimant informed the employer that she wanted to "get away from here" and she began screaming and swearing at Megan Kopsa, the on-site director. The claimant referred to other employees as "bitches" and kept on screaming and yelling. The claimant's claim that she was supervising too many children was unfounded.

Both the claimant and the employer participated in the fact-finding interview. Through the week ending September 28, 2013, the claimant has been paid unemployment insurance benefits in the amount of \$2,180.00.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5-1 provides:

An individual shall be disqualified for benefits:

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.

871 IAC 24.25(21) provides:

Voluntary quit without good cause. 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 from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(21) The claimant left because of dissatisfaction with the work environment.

A quit is a separation initiated by the employee. 871 IAC 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 871 IAC 24.25.

The claimant is not eligible for unemployment insurance benefits. The overwhelming weight of the credible evidence in this case is that the claimant elected to quit her job because she did not like the working environment. Her statement that she had quit and the accompanying swearing and screaming leave no doubt that she intended to sever the employment relationship. There was insufficient evidence that the claimant was subjected to unusually stressful conditions and her basic claim that she was supervising too many children was not founded in fact. She did not quit for good cause attributable to the employer. Benefits are denied.

The next issue is overpayment of benefits. The claimant received benefits to which she was not entitled. As of the week ending September 28, 2013, the amount of benefits received was \$2,180.00. The employer participated in the fact-finding process.

DECISION:

The decision of the representative dated August 8, 2013, reference 01, is reversed. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefits amount, provided claimant is otherwise eligible. This matter is remanded to the claims section for final determination of the amount of the overpayment, which shall be repaid by the claimant.

Vicki L. Seeck
Administrative Law Judge

Decision Dated and Mailed

vls/pjs