

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KAREN BARTLETT
Claimant

APPEAL NO: 10A-UI-10824-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MERCY MEDICAL CENTER
Employer

OC: 06/13/10
Claimant: Appellant (2)

Iowa Code § 96.5(2)(a) - Discharge for Misconduct

STATEMENT OF THE CASE:

Karen Bartlett (claimant) appealed an unemployment insurance decision dated July 23, 2010, reference 01, which held that she was not eligible for unemployment insurance benefits because she voluntarily quit her employment with Mercy Medical Center (employer) without good cause attributable to the employer. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on September 20, 2010. The claimant participated in the hearing. The employer provided a telephone number but was not available when that number was called for the hearing, and therefore, did not participate. Based on the evidence, the arguments of the party, 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-related 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 part-time cardio pulmonary technician in August 2006. She became a respiratory therapist in July 2008 and worked in that capacity until her physician took her off work on May 2, 2010 due to a non-work-related medical injury. The employer discharged the claimant on June 18, 2010 due to the exhaustion of her medical leave.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the reasons for the claimant's separation from employment qualify her to receive unemployment insurance benefits. All terminations of employment are generally classified as layoffs, quits, discharges or other separations. 871 IAC 24.1(113)(a). A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quits employment without good cause attributable to the employer or an employer has discharged the claimant for work-connected misconduct. Iowa Code §§ 96.5-1 and 96.5-2-a.

The evidence establishes the claimant was unable to work due to a non-work-related medical condition. When an employee is unable to work and does not return to work due to a non-work-related medical condition, the separation is typically considered to be a voluntary quit without good cause attributable to the employer. Benefits are then denied until the claimant completely recovers and returns to offer her services to the employer. However, in the case herein, the employer took the first step and discharged the claimant for the same reasons. When the employer initiates a separation, the reasons must constitute work-connected misconduct before a claimant can be denied unemployment insurance benefits. The claimant's separation from employment was not due to any misconduct on her part nor did she quit her job. The claimant is qualified to receive unemployment insurance benefits, provided she is otherwise eligible.

DECISION:

The unemployment insurance decision dated July 23, 2010, reference 01, is reversed. The claimant was discharged. Misconduct has not been established. Benefits are allowed, provided the claimant is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/pjs