

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LORA L STAKEN

Claimant

APPEAL NO. 08A-UI-08922-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ARAS FAMILY CARE PC

Employer

**OC: 08/24/08 R: 04
Claimant: Appellant (1)**

Iowa Code section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed a timely appeal from the September 23, 2008, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on October 20, 2008. Claimant participated. Sara Barnes, D.O., represented the employer. Exhibits A through I and Exhibits One through Five were received in evidence.

ISSUE:

Whether the claimant's voluntary quit was for good cause attributable to the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Lora Staken was employed as a full-time medical assistant from July 2005 until August 26, 2008, when she voluntarily quit. Ms. Staken's immediate supervisor was Carol McDevitt, R.N. The final incident that prompted Ms. Staken's quit occurred on August 26, 2008. Ms. Staken had to appear in court on that date for a trial on a criminal charge. Ms. Staken did not notify anyone at the workplace until late afternoon the day before she needed to be absent, when she notified one of the clinic doctors and a billing clerk. That doctor directed Ms. Staken to notify Sara Barnes, D.O., who owned and managed the medical clinic. Ms. Staken did not notify Dr. Barnes until after the scheduled start of her shift on the day she needed to be absent. Because Ms. Staken had given late notice of her need to be absent, Nurse McDevitt had to take over Ms. Staken's responsibilities for assisting one of the doctors with his patients. Nurse McDevitt had not known that she would be assisting with patients and had not dressed for that role. When Ms. Staken notified the employer she would be arriving late, she indicated she would be at work by 11:00 a.m. Ms. Staken did not appear until 1:00 p.m. At that time, Nurse McDevitt spoke to Ms. Staken about a lack of communication, lack of consideration, and unprofessional conduct. The evidence does not indicate that Nurse McDevitt was in any way abusive or bullying toward Ms. Staken. Immediately following this conversation, Ms. Staken wrote a resignation note, walked it into Dr. Barnes and proceeded to exit the clinic.

Ms. Staken had an ongoing personality conflict with multiple coworkers. One or more coworkers would at times make inappropriate remarks about Ms. Staken's relationship with the

doctor with whom she worked closely. At one point, a coworker took a telephone call about Ms. Staken and then announced to the office that Ms. Staken's wages were going to be garnished. Though such conduct was clearly inappropriate, it did not rise to the level of harassment and/or bullying.

Ms. Staken had multiple medical diagnoses and experienced significant weight loss during the employment. Ms. Stake erroneously perceived her coworkers' open concern about her well-being as deliberate violation of her dignity. None of Ms. Staken's doctors had recommended that she quit the employment.

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.

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.

Quits due to intolerable or detrimental working conditions are deemed to be for good cause attributable to the employer. See 871 IAC 24.26(4). The test is whether a reasonable person would have quit under the circumstances. See Aalbers v. Iowa Department of Job Service, 431 N.W.2d 330 (Iowa 1988) and O'Brien v. Employment Appeal Bd., 494 N.W.2d 660 (1993). Aside from quits based on medical reasons, prior notification of the employer before a resignation for intolerable or detrimental working conditions is not required. See Hy-Vee v. EAB, 710 N.W.2d (Iowa 2005).

Voluntary quits prompted by a personality conflict with a supervisor or coworker are presumed to be without good cause attributable to the employer. See 871 IAC 24.25(22) and (6).

Where a person voluntarily quits in response to a reprimand, the quit is presumed to be without good cause attributable to the employer. See 871 IAC 24.25(28)

The weight of the evidence in the record fails to establish intolerable and/or detrimental working conditions that would have prompted a reasonable person to quit the employment. The evidence indicates that there was no significant change in the work environment over the three years of Ms. Staken's work environment. The weight of the evidence fails to establish that Ms. Staken's quit was prompted by workplace bullying. The weight of the evidence establishes instead that the voluntary quit was prompted by a verbal reprimand from Ms. Staken's immediate supervisor. The evidence indicates that the supervisor had appropriately expressed concern about Ms. Staken's failure to provide the employer with appropriate notice of her need to be absent.

Based on the evidence in the record and application of the appropriate law, the administrative law judge concludes that Ms. Staken voluntarily quit the employment without good cause

attributable to the employer. Accordingly, Ms. Staken is disqualified for benefits until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. The employer's account shall not be charged for benefits paid to Ms. Staken.

DECISION:

The Agency representative's September 23, 2008, reference 01, decision is affirmed. The claimant voluntarily quit the employment 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, provided she is otherwise eligible. The employer's account shall not be charged.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/pjs