

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ANGELA E MARTIN
Claimant

APPEAL NO: 10A-UI-14135-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

GENESIS HEALTH SYSTEM
Employer

**OC: 09/12/10
Employer: Appellant (1)**

Section 96.5-1 – Voluntary Quit
871 IAC 24.25(38) – Resignation

STATEMENT OF THE CASE:

The claimant appealed a department decision dated October 8, 2010, reference 01, that held the claimant resigned effective September 24, 2010, but the employer terminated her on September 15 that did not allow her to work her notice period. Benefits are allowed from September 12, 2010 to September 25, but the benefits are denied, thereafter. A telephone hearing was held on December 7, 2010. The claimant participated. Linda Sanders, HR Assistant, participated for the employer.

ISSUE:

Whether the claimant voluntarily quit without good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge having heard the testimony of the witnesses, and having considered the evidence in the record, finds: The claimant gave two-week notice on September 12, 2010 that she was resigning from employment. The employer did not accept an earlier notice dated September 10, because it did not state clearly the intent to resign.

The employer accepted the resignation on September 15, but it took her off the schedule and terminated employment. The employer did not allow claimant to work through her notice period.

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(38) 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:

(38) Where the claimant gave the employer an advance notice of resignation which caused the employer to discharge the claimant prior to the proposed date of resignation, no disqualification shall be imposed from the last day of work until the proposed date of resignation; however, benefits will be denied effective the proposed date of resignation.

The administrative law judge concludes that the claimant resigned effective September 25, 2010 that is a voluntarily quit of employment without good cause attributable to the employer, but the employer discharged her on September 15 after accepting the resignation that makes claimant eligible for benefits to the proposed resignation date.

A resignation is a voluntary quit without good cause attributable to the employer. The employer accepted the resignation but terminated the claimant that kept her from working during the two-week notice period. The law allows claimant to receive unemployment benefits for the two-week period she was willing to work after submitting her resignation, and then it applies the resignation disqualification at the end of the period.

DECISION:

The department decision dated October 8, 2010, reference 01, is affirmed. The claimant voluntarily quit without good cause attributable to the employer effective September 25, 2010. The claimant is allowed benefits for the two weeks ending September 25, because the employer terminated her and did not allow her to work the notice period. Benefits are denied effective September 26, 2010, until claimant has worked in and is paid wages for insured work, equal to ten times her weekly benefit amount, provided the claimant is otherwise eligible.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/css