

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**TINA M MONTROSS**  
Claimant

**APPEAL NO: 12A-UI-03220-ST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**RADIOLOGY CONSULTANTS OF  
IOWA PLC**  
Employer

**OC: 02/12/12  
Employer: Appellant (4)**

Section 96.5-1 – Voluntary Quit  
871 IAC 24.25(35) – Left due to Illness/Stress  
871 IAC 24.25(38) – Resignation/Discharge

**STATEMENT OF THE CASE:**

The claimant appealed a department decision dated March 23, 2012, reference 01, that held she voluntarily quit without good cause effective February 10, 2012, and benefits are denied. A telephone hearing was held on April 26, 2012. The claimant participated. Pam Brown, CFO, and Rosalie Bowers, 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 witness, and having considered the evidence in the record, finds: The claimant began employment on April 20, 2009. She worked as a full-time account representative to clinic liaison until she went on FMLA for a period from December 1, 2011 to her return to work on February 1, 2012. Claimant became stressed at work that she attributes to a lack of training. The employer had introduced a new computer program system for all employees, and it provided claimant with three training sessions for a total of about five hours. She had difficulty learning the system.

When claimant returned to work, her doctor limited her to working one-half days for the first week with a return to full duty afterwards. She worked a full day on Monday, February 6, and then gave the employer a two-week notice she quitting effective February 20. The employer issued claimant a release from work on Friday, February 10 stating she did not need to work thru her notice period. Claimant did not seek doctor advice when she made her decision to quit 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.

871 IAC 24.25(35), (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:

(35) The claimant left because of illness or injury which was not caused or aggravated by the employment or pregnancy and failed to:

- (a) Obtain the advice of a licensed and practicing physician;
- (b) Obtain certification of release for work from a licensed and practicing physician;
- (c) Return to the employer and offer services upon recovery and certification for work by a licensed and practicing physician; or
- (d) Fully recover so that the claimant could perform all of the duties of the job.

(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 February 6, 2012 that is a voluntarily quit of employment without good cause attributable to the employer, but she was discharged when the employer released her from working the notice period to February 20 that makes her eligible for benefits to the proposed resignation date.

A resignation is a voluntary quit without good cause attributable to the employer. Although claimant offers stress as the moving cause for leaving, it was not based on doctor's advice. It is commonly known that a doctor takes a patient history to determine diagnosis and prognosis for recovery. While the doctor determined claimant was entitled to the respite FMLA period thru February 1, 2012, for stress, claimant was released for full duty on February 6. It is reasonable to assume the doctor would have known the root cause or causes for the stress, and if it was a training issue, would have addressed it in the doctor release. In addition, claimant gave the employer little opportunity to deal with any issue by resigning shortly after returning to work.

**DECISION:**

The department decision dated March 23, 2012, reference 01, is modified. The claimant voluntarily quit without good cause attributable to the employer effective February 6, 2012. Since the employer discharged her before her proposed resignation date of February 20, she is entitled to benefits for that period. Benefits are then denied until the 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.

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Randy L. Stephenson  
Administrative Law Judge

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Decision Dated and Mailed

rls/pjs