

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JASMINE PARKER
Claimant

APPEAL NO: 12A-UI-07818-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

FAMILY RESOURCES INC
Employer

OC: 06/10/12
Claimant: Appellant (2)

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

STATEMENT OF THE CASE:

Jasmine Parker (claimant) appealed an unemployment insurance decision dated June 27, 2012, reference 01, which held that she was not eligible for unemployment insurance benefits because she voluntarily quit her employment with Family Resources, Inc. (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 July 23, 2012. The claimant participated in the hearing. The employer failed to call in to provide a telephone number, but the administrative law judge contacted the employer for further information. Human Resources Director Deb Steele answered questions on behalf of the employer. Based on the evidence, the arguments of the parties, 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 claimant was discharged for misconduct sufficient to warrant a denial of unemployment benefits.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds that: The claimant was hired full-time on June 3, 2010 as a youth service worker and became a residential counselor. She went on Family Medical Leave on January 17, 2012, when she was unable to work due to complications with her pregnancy. The employer never gave the claimant a copy of her FMLA papers, but her leave should have expired on April 10, 2012.

The claimant notified the employer on April 5, 2012 and informed them she was not able to return to work, since she had not delivered her baby. The employer told her that everything was okay and she just needed to contact them when she was available to return to work. The claimant had a C-section on May 10, 2012 and was released to return to work without restrictions on June 1, 2012. She contacted the employer after that and was advised her position was no longer available.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the reasons for the claimant's separation from employment qualify her to receive unemployment insurance benefits. The claimant is not qualified to receive unemployment insurance benefits if she voluntarily quit without good cause attributable to the employer or if the employer discharged her for work-connected misconduct. Iowa Code §§ 96.5-1 and 96.5-2-a.

A leave of absence negotiated with the consent of both parties, employer and employee, is deemed a period of voluntary unemployment for the employee-individual, and the individual is considered ineligible for benefits for the period. 871 IAC 24.22(2)(j). If at the end of a period of the negotiated leave of absence the employer fails to reemploy the employee-individual, the individual is eligible for benefits. 871 IAC 24.22(2)(j)(1). On the other hand, if the employee-individual fails to return at the end of the leave of absence and subsequently becomes unemployed, the individual is considered as having voluntarily quit and therefore is ineligible for benefits. 871 IAC 24.22(j)(2).

The evidence in the record establishes that the claimant was on an approved leave of absence and the employer discharged her prior to her return from that leave of absence. The employer did not voluntarily participate in the hearing and when a member of human resources was contacted by the administrative law judge, the employee could not definitely say whether the claimant was on Family Medical Leave. The claimant was never given a copy of any paperwork and never advised that her job was in jeopardy. Consequently, work-connected misconduct as defined by the unemployment insurance law has not been established in this case and benefits are allowed.

DECISION:

The unemployment insurance decision dated June 27, 2012, 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/kjw