IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS

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

STACEY D WERTS
Claimant

CARDIOVASCULAR MEDICINE PC
Employer

APPEAL NO. 09A-UI-11939-SW

ADMINISTRATIVE LAW JUDGE DECISION

Original Claim: 07/05/09
Claimant: Appellant (2)

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated August 12, 2009, reference 01, that concluded she voluntarily quit employment without good cause attributable to the employer. A hearing was held on October 6, 2009, in Davenport, Iowa. The parties were properly notified about the hearing. The claimant participated in the hearing. Lindsay Heinrichs participated in the hearing on behalf of the employer with witnesses Pat Ragan and Kristine Zeller. Exhibits A and One through Five were admitted into evidence at the hearing.

ISSUE:

Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

The claimant worked as a health information clerk for the employer from August 11, 2008, to March 20, 2009.

The claimant had a baby on March 22 and went on a six-week maternity leave from March 23 to May 4, 2009. In early May, the claimant's child was colicky, was not taking formula well, and was up often through the night. This resulted in the claimant experiencing stress, fatigue, anxiety, and depression. The claimant called in sick on May 4, 2009, and informed the employer that she was going to her doctor.

On May 4, 2009, the claimant saw the doctor who had been treating her and her baby since the birth. He prepared a medical statement excusing her from working until June 1, 2009, based on child's problems and the effect of those problems on the claimant's health. The claimant submitted the doctor's statement to the employer on May 5, 2009.

The human resources coordinator, Michelle Hetrick, wrote to the claimant and informed her that her request for additional time off was denied, as she was not eligible for Family and Medical Leave Act (FMLA) leave and it would create a hardship to the employer to extend her leave. She was informed that she was expected to report to work with a doctor's note releasing her for regular duty on May 13, 2009. Hetrick requested that the claimant "please let us know of your decision by 5:00 p.m. May 11, 2009.

She contacted the employer on May 11, 2009, and indicated she would not be reporting to work on May 13, 2009, because she was not released. On May 11, 2009, Hetrick wrote a letter to the claimant discharging her because she had exceeded her authorized leave, additional time off would have created a hardship to the employer, and she was not eligible for FMLA leave.

REASONING AND CONCLUSIONS OF LAW:

The unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer or who are discharged for work-connected misconduct. Iowa Code §§ 96.5-1 and 96.5-2-a. To voluntarily quit means a claimant exercises a voluntary choice between remaining employed or discontinuing the employment relationship and chooses to leave employment. To establish a voluntary quit requires that a claimant must intend to terminate employment. Wills v. Employment Appeal Board, 447 N.W.2d 137, 138 (Iowa 1989); Peck v. Employment Appeal Board, 492 N.W.2d 438, 440 (Iowa App. 1992). The claimant clearly did not intend to quit her employment. She was discharged by the employer on May 11, 2009, as shown by the letter from Hetrick.

The next issue in this case is whether the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law.

The rules define misconduct as (1) deliberate acts or omissions by a worker that materially breach the duties and obligations arising out of the contract of employment, (2) deliberate violations or disregard of standards of behavior that the employer has the right to expect of employees, or (3) carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent, or evil design. Mere inefficiency, unsatisfactory conduct, failure in good performance as the result of inability or incapacity, inadvertencies or ordinary negligence in isolated instances, or good faith errors in judgment or discretion are not misconduct within the meaning of the statute. 871 IAC 24.32(1).

The findings of fact show how I resolved the disputed factual issues in this case by carefully assessing the credibility of the witnesses and the reliability of the evidence and by applying the proper standard and burden of proof. The employer insinuated that the claimant was not legitimately unable to work and the doctor's statement was an exaggeration. I believe the doctor's note provides ample justification that the claimant was not able to work until June 1, 2009.

While the employer may have been justified in discharging the claimant, work-connected misconduct as defined by the unemployment insurance law has not been established. No willful and substantial misconduct has been proven in this case.

DECISION:

The unemployment insurance decision dated August 12, 2009, reference 01, is reversed. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible.

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Steven A. Wise
Administrative Law Judge

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Decision Dated and Mailed

saw/kjw