

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ARLENE M KACHER
Claimant

APPEAL NO. 09A-UI-06419-VST

**ADMINISTRATIVE LAW JUDGE
DECISION**

COMFORT CARE MEDICARE INC
Employer

OC: 03/29/09
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

The claimant, Arlene M. Kacher, filed an appeal from a decision of a representative dated April 20, 2009, reference 02, which held that the claimant was ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on May 20, 2009. The claimant participated personally. The employer participated by Wendy Kohl, health care aide supervisor. The record consists of the testimony of Arlene Kacher and Wendy Kohl.

ISSUE:

The issue in this matter is whether claimant quit for good cause attributable to employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, makes the following findings of fact:

The claimant was hired on January 6, 2006 as a health care aide. On March 30, 2009, the claimant voluntarily quit her employment and signed a document to that effect. The claimant's resignation followed a couple of meetings with management of the employer. The claimant was upset about the scheduling procedure and in particular felt that one of those managers, Carol Wadell, had called the claimant a liar. Wendy Kohl tried to get the claimant to change her mind about her resignation, but the claimant did not change her mind.

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.

A quit is a separation initiated by the employee. 871 IAC 24.1(113)(b). 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.

The administrative law judge holds that the evidence has failed to establish that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship. The claimant was angry because she did not know that she was supposed to work on a Friday and felt that when she questioned her supervisor about the scheduling that the supervisor accused her of lying. The claimant admitted, however, that the supervisor had apologized for the scheduling problem. Despite that apology, the claimant was still angry and said that she quit. The claimant went on to sign a document indicating she quit even after Wendy Koch tried to persuade her to change her mind.

Even though the claimant may not have been entirely clear about when she was to work, this fact does not show that the claimant quit with good cause attributable to the employer. Scheduling errors can happen and given the nature of the employer's business—in-home health care—it is expected that even unanticipated changes might need to be made. Benefits will not be awarded.

DECISION:

The decision of the representative dated April 20, 2009, reference 02, is affirmed. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.

Vicki L. Seeck
Administrative Law Judge

Decision Dated and Mailed

vls/pjs