

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MARCIA K PARSONS
Claimant

APPEAL NO. 06A-UI-09695-S2

**ADMINISTRATIVE LAW JUDGE
DECISION**

MERCY HOSPITAL
Employer

**OC: 09/03/06 R: 02
Claimant: Appellant (1)**

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Marcia Parsons (claimant) appealed a representative's September 22, 2006 decision (reference 01) that concluded she was not eligible to receive unemployment insurance benefits because she had voluntarily quit employment with Mercy Hospital (employer). After hearing notices were mailed to the parties' last-known addresses of record, a hearing was held on November 8, 2006, in Des Moines, Iowa. The claimant was represented by Joseph Walsh, Attorney at Law, and participated personally. The employer represented by Patricia Shoff, Attorney at Law, and participated by Ron Robertson, Employee Relations Coordinator, and Phyllis Smith, Manager of Medical Records. Frank Parsons, the claimant's husband, observed the hearing. The claimant offered two exhibits, which were marked for identification as Exhibits A and B. Exhibits A and B were received into evidence. The employer offered five exhibits, which were marked for identification as Exhibits One, Two, Three, Four and Five. Exhibits One, Two, Three, Four and Five were received into evidence.

ISSUE:

The issue is whether the claimant voluntarily quit work without good cause attributable to the employer.

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 on September 22, 2003, as a full-time clerical specialist. The claimant was retired from a previous position. She received full-benefits from that previous position and declined benefits from the employer. The employer offered a Pay Instead of Benefits (PIB) program in which the claimant could earn approximately \$520.00 per month. She enrolled in the program each September and the program started annually in December. When she enrolled in the program, she signed an agreement that indicated a condition of the program was that she could not be absent from work for more than 120 hours per year. Should the claimant fail to abide by the terms of the agreement, she would return to regular status and accrue Paid Time Off (PTO).

In February 2006, the claimant requested vacation from June 25 to July 9, 2006. The claimant told the supervisor that she would not take the vacation if the hours put her over the 120 hours allowed. The supervisor approved the vacation without tallying the claimant's hours of leave. When the claimant returned to work on July 10, 2006, the employer informed the claimant that she would have to work eight hours extra during the pay period to retain her PIB status. The claimant discussed the matter with the Employee Relations Coordinator, and the two agreed that if the claimant worked four hours extra she could remain on PIB status. On July 11, 2006, the supervisor and the claimant agreed that they both were at fault for going over 120 hours of leave. They established that the claimant could not be absent any more hours until September 22, 2006, the PIB start date, or the claimant's PIB status would terminate. They memorialized this in a handwritten note they both signed and dated.

The claimant was sick and absent from work for two full days and one partial day. The employer removed the claimant from PIB status and returned her to regular status earning PTO. The claimant resigned because of the change in her status.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant voluntarily quit work without good cause attributable to the employer.

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 voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980). The claimant's intention to voluntarily leave work was evidenced by her words and actions. She told the employer that she was leaving and quit work. There was no evidence presented at the hearing of good cause attributable to the employer. The claimant had an agreement to be absent from work less than 120 hours if the employer would give her an additional \$520.00 per month. The claimant was absent more than 120 hours. Per the terms of the agreement, the employer did not pay her the additional \$520.00 per month.

The claimant knew the terms of the agreement, as evidenced by her comment to the supervisor in February 2006. The claimant indicated she did not want to go over the 120 hours of leave at that time. By inference, she was willing to use all of her time on the vacation and return to work with no remaining hours of leave. On July 11, 2006, the employer put the claimant at that status, no additional hours of leave. The claimant signed that she realized she was at the point of no hours remaining. The claimant was given the status she requested in February 2006. The claimant voluntarily quit without good cause attributable to the employer. Benefits are denied.

DECISION:

The representative's September 22, 2006 decision (reference 01) is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until

she has worked in and has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/kjw