

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KATHY A MURDOCH

Claimant

APPEAL NO. 12A-UI-02451-VST

**ADMINISTRATIVE LAW JUDGE
DECISION**

ST LUKES METHODIST HOSPITAL

Employer

OC: 07/24/11

Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

The claimant filed an appeal from a representative's decision dated February 29, 2012, reference 02, which held that the claimant was not eligible to receive unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on March 28, 2012. The employer participated by Theresa Faxon, benefits coordinator, and Carol Collingsworth, lab director. The claimant failed to respond to the hearing notice and did not participate. The record consists of the testimony of Carol Collingsworth and Employer's Exhibits 1 and 2. Theresa Faxon did not testify.

ISSUE:

Whether the claimant voluntarily left for good cause attributable to the employer.

FINDINGS OF FACT:

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

The employer is a hospital located in Cedar Rapids, Iowa. The claimant was hired on October 31, 2011, as a part-time secretary. Her last day of work was December 9, 2011. She quit her job via email on January 23, 2012. Her separation as a voluntary quit was processed by the employer on January 24, 2012.

The claimant had missed several days of work in December 2011, and was asked to attend an appointment at the WorkWell Center prior to returning to work. The claimant did not attend the appointment and did not return to work. The employer attempted to contact the claimant without success. On January 16, 2012, the claimant was sent a certified letter asking about her status. The claimant responded by email that she did not feel this was a good position for her and that she would not be returning to work. Work was available had the claimant elected to return to work.

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(21) 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:

(21) The claimant left because of dissatisfaction with the work environment.

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 evidence established that it was the claimant who initiated the separation of employment. She sent an email on January 23, 2012 to the employer indicating that she would not be returning to work because the job was not a good position for her. The claimant's email and her failure to return to work show that she intended to sever the employment relationship. The claimant did not participate in the hearing and her reasons for quitting are unknown. Since the claimant did not establish good cause attributable to the employer for quitting, benefits are denied.

DECISION:

The representative's decision dated February 29, 2012, 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/kjw