

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ANITA M GUMM
Claimant

APPEAL NO. 14A-UI-03079-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

THE EASTER SEAL SOCIETY OF IA INC
Employer

OC: 02/23/14
Claimant: Appellant (1)

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated March 18, 2014, reference 01, that concluded she voluntarily quit employment without good cause attributable to the employer. A telephone hearing was held on April 11, 2014. The parties were properly notified about the hearing. The claimant participated in the hearing with her representative, Jon Geyer. Sara Hardy participated in the hearing on behalf of the employer with a witness, Kevin Small. Exhibits One, A, and B were admitted into evidence at the hearing.

ISSUE:

Did the claimant voluntarily quit employment without good cause attributable to the employer?

FINDINGS OF FACT:

The claimant was employed full time for the employer as a janitor from April 28, 2008, to February 28, 2014.

On August 28, 2013, the claimant submitted her retirement from her position to be effective February 28, 2014. She decided to retire to do something different.

The claimant was off work from October 2013 to January 10, 2014, due to a work-related injury to her ankle. She returned to work from January 10 to 24, working part time. After January 24, the claimant was excused from working by her doctor through until February 16. She was released by her doctor to return to work with a five-pound weight restriction effective February 16. Because the claimant's normal job duties required lifting over five pounds, the employer determined the claimant would not be allowed to work through the effective date of her retirement of February 28. The claimant, however, was paid through February 28.

In mid-February 2014, the claimant decided she did not want to retire because she needed to stay active. She asked the human resources generalist and chief financial officer if she could rescind her resignation and continue to work, but they decided to accept her resignation and would not allow her to rescind it.

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.

871 IAC 24.25(37) provides that the following reason for a voluntary quit is be presumed to be without good cause attributable to the employer: "The claimant will be considered to have left employment voluntarily when such claimant gave the employer notice of an intention to resign and the employer accepted such resignation."

Once the employee provides the employer notice of an intention to quit on a certain date, the fact of a voluntary quit has been established. The fact that the employee later changes his or her mind but employer accepts the resignation and will not allow the employee to rescind the resignation does not transform the quit into a discharge. In this case the claimant voluntarily quit when she gave notice of retiring and the employer accepted that she was retiring effective February 28. She retired because she wanted to do something different, which does not show good cause attributable to the employer for quitting.

The rules do provide that if an employer terminates the claimant's employment before the effective date of a quit, a claimant can be eligible for benefits during the time he or she was not permitted to work. 871 IAC 24.26(12). In this case, however, the claimant was paid through February 28 and was therefore employed through that day so the issue of whether the claimant would be eligible from the date she applied for unemployment, February 23, through the effective date of her quit, February 28, is not raised in this case.

DECISION:

The unemployment insurance decision dated March 18, 2014, reference 01, is affirmed. The claimant is disqualified from receiving unemployment insurance benefits until she has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/css