

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ANGELA FRIEND

Claimant

APPEAL NO: 06A-UI-11470-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ADVANCED CENTER FOR ELECTROLYSIS

Employer

**OC: 10/15/06 R: 03
Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Angela Friend (claimant) appealed an unemployment insurance decision dated November 20, 2006, reference 02, which held that she was not eligible for unemployment insurance benefits because she voluntarily quit her employment with Advanced Center for Electrolysis (employer) without good cause attributable to the employer. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on December 14, 2006. The claimant participated in the hearing with current employee Megan Moon. The employer participated through owner Angela Flender. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

The issue is whether the claimant's voluntary separation from employment qualifies her to receive unemployment insurance benefits?

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was employed as a part-time receptionist from August 3, 2004 through October 21, 2006. She was hired for the daytime shift and worked that shift except for four days. The claimant was on maternity leave from June 12, 2006 through September 5, 2006 when she returned to work. She worked her regular day shift but was having problems with child care so asked a co-worker who worked nights if they could switch shifts. The co-worker agreed and a meeting was held with the employer on September 26, 2006. The employer agreed to the switch based on her belief that it was temporary until the claimant could work out her childcare problems. Another employee was already working the day shift for the claimant on Wednesdays since she wanted more hours and the claimant wanted less. On the following day, the co-worker who was working days put in her resignation notice. The employer asked the claimant which daytime hours she wanted to take since a new employee was going to be hired and the claimant stated that she would not work days any longer. The employer advised the claimant she could no longer use her then. The claimant worked the day shift on October 7, 12, 14 and 21 before leaving her employment.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the reasons for the claimant's separation from employment qualify her to receive unemployment insurance benefits. The claimant is not qualified to receive unemployment insurance benefits if she voluntarily quit without good cause attributable to the employer or if the employer discharged her for work-connected misconduct. Iowa Code sections 96.5-1 and 96.5-2-a.

The claimant contends she was discharged because the employer said she could no longer be used. This is correct but the employer made that statement in response to the claimant stating she would not work days. The claimant was hired to work days and while she switched with another employee temporarily, her contract of hire was for days. She contends that the other employee was fine with working days allowing her to work nights, but it was not up to the other employee. The employer previously agreed to a temporary switch in order to assist the claimant with her childcare problems and it was solely the employer's business needs that determined the work schedules, not the desires of its employees. In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980) and Peck v. Employment Appeal Bd., 492 N.W.2d 438 (Iowa Ct. App. 1992). The claimant demonstrated her intent to quit and acted to carry it out when she told the employer she would not work days. She would not work days because she did not want her son to be with a childcare provider.

It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify her. Iowa Code section 96.6-2. The claimant has not satisfied that burden. Benefits are denied.

DECISION:

The unemployment insurance decision dated November 20, 2006, reference 02, 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.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/pjs