

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ELIZABETH A BARR

Claimant

FLAGGER PROS USA LLC

Employer

APPEAL NO. 14A-UI-12595-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 10/12/14
Claimant: Appellant (2)**

Section 96.5(1)(a) – Voluntary Quit to Accept Other Employment

STATEMENT OF THE CASE:

Elizabeth Barr filed a timely appeal from the December 3, 2014, reference 02, decision that disqualified her for benefits. After due notice was issued, a hearing was held on January 6, 2015. Ms. Barr participated. Victoria Benson represented the employer. Exhibits A and B were received into evidence.

ISSUE:

Whether Ms. Barr voluntarily quit the employment for a reason that disqualifies her for benefits or that relieves the employer of liability for benefits.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Elizabeth Barr was employed by Flagger Pros USA. L.L.C., until November 2, 2014, when she voluntarily quit to accept other employment. Ms. Barr started with the new employer the next day.

REASONING AND CONCLUSIONS OF LAW:

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.

Iowa Code section 96.5(1)(a) provides as follows:

Causes for disqualification.

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. But the individual shall not be disqualified if the department finds that:

a. The individual left employment in good faith for the sole purpose of accepting other or better employment, which the individual did accept, and the individual performed services in the new employment. Benefits relating to wage credits earned with the employer that the individual has left shall be charged to the unemployment compensation fund. This paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

Ms. Barr voluntarily quit the employment with Flagger Pros U.S.A., L.L.C., to accept new employment and performed work for the new employer. The quit was without good cause attributable to Flagger Pros and that employer's account will not be charged for benefits paid to Ms. Barr. Because the quit was a quit to accept new employment, the quit does not disqualify Ms. Barr for unemployment insurance benefits. Ms. Barr is eligible for benefits, provided she is otherwise eligible.

DECISION:

The December 3, 2014, reference 02, decision is reversed. The claimant voluntarily quit the employment without good cause attributable to the employer to accept new employment. The employer's account shall not be charged. The claimant is eligible for benefits, provided she is otherwise eligible.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/pjs