

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

PEGGY S LAUBE

Claimant

APPEAL NO. 12A-UI-00159-VST

**ADMINISTRATIVE LAW JUDGE
DECISION**

GENESIS DEVELOPMENT

Employer

OC: 12/04/11

Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

The claimant filed an appeal from a decision of a representative dated December 30, 2011, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on February 1, 2012. Claimant participated. The employer participated by Janet Moore, Winterset site director. The record consists of the testimony of Peggy Laube and the testimony of Janet Moore.

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 witnesses and having considered all of the evidence in the record, makes the following findings of fact:

The employer provides services to individuals with disabilities. The claimant was hired on May 27, 2010, as a community support specialist. The claimant worked at a group home called the "Winterset" home. She was a full-time employee.

On October 3, 2011, the claimant gave her employer written notice of her intent to resign. Her last day of work was supposed to be October 17, 2011. The claimant's reason for resigning was that she and her husband were going to move in order to care for his mother. The employer accepted the claimant's resignation. The claimant continued to work. Her last day of actual work was October 14, 2011.

After the employer accepted the claimant's resignation, the employer hired an individual to replace the claimant. A current employee was transferred to the Winterset site and the new employee was assigned where the transferee had worked. On or about October 14, 2011, the claimant told the employer that she did not have to move since a sister was going to stay with the mother. The claimant wanted to return to work at the Winterset site, but her position there had been filled. She was offered a position at the Buchanan site, which she did accept.

The orientation for Buchanan site was on October 18, 2011, and October 19, 2011. The claimant also accepted hours at other sites for October 15, 2011, and October 16, 2011. She was a no call/no show for all four days. The claimant said she quit because she wanted to go back to the Winterset site.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 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 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 in this case showed that it was the claimant who initiated the separation of employment. On October 3, 2011, she gave notice of her intent to resign in two weeks. The employer accepted the resignation and proceeded to fill the claimant's position through an internal transfer and then an outside hire. The claimant found out that she did not have to move and wanted her old job back. Her job was filled but the claimant was offered a job at a different site. She accepted the position, but then had four days of no call/no show. The claimant testified that she quit when she was not allowed to go back to Winterset.

The claimant felt that the employer was unfair to her by not giving her back her job at the Winterset site. The employer had accepted the claimant's resignation and had no obligation to give the claimant her job at the Winterset site after the position had been filled. The claimant elected to quit initially for personal reasons. She, in effect, quit a second time by having four days of no call/no show. The employer could reasonably assume that the claimant had abandoned her job and the claimant testified she quit. She quit without good cause attributable to the employer. Benefits are denied.

DECISION:

The decision of the representative dated December 30, 2011, reference 01, 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/pjs