

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MITZIE L JAMES
Claimant

APPEAL NO. 10A-UI-10408-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

GENESIS HEALTH SYSTEM
Employer

OC: 06/20/10
Claimant: Appellant (4-R)

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

STATEMENT OF THE CASE:

Mitzie James filed a timely appeal from the July 16, 2010, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on September 8, 2010. Ms. James participated. Linda Sanders, Human Resources Assistant, represented the employer.

ISSUE:

Whether Ms. James separated from the employment for a reason that disqualifies her for unemployment insurance benefits.

Whether the employer's account may be charged for benefits paid to Ms. James.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Mitzie James was employed by Genesis Health System as a part-time certified nursing assistant from 2008 until June 1, 2010, when she voluntarily quit to accept other, full-time employment. Ms. James submitted a written resignation via e-mail two weeks prior to the effective date of her quit. Ms. James hoped to continue as an on-call employee. Ms. James' supervisor initially indicated this might be an option, but later indicated it was not. Ms. James nonetheless went through with her voluntary quit and did not attempt to rescind her quit. Ms. James started her new, full-time employment on June 1, 2010 and performed work for the new employer.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5-1-a 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. 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.

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 weight of the evidence indicates that Ms. James voluntarily quit the employment to accept other, full-time employment and performed work for the new employer. The voluntary quit was without good cause attributable to the Genesis Health System. Genesis Health System will not be charged for benefits paid to the claimant. Given that Ms. James actually performed work for the new employer, Ms. James' voluntary quit to accept other employment would not disqualify her for benefits. Ms. James is eligible for benefits, provided she is otherwise eligible.

DECISION:

The Agency representative's July 16, 2010, reference 01, decision is modified as follows. The claimant voluntarily quit the employment to accept other, full-time employment and performed work for the new employer. The voluntary quit was without good cause attributable to the Genesis Health System. Genesis Health System will not be charged for benefits paid to the claimant. The claimant is eligible for benefits, provided she is otherwise eligible.

This matter is remanded to the Claims Division to address the claimant's separation from the new employer, Koosharem Corporation/Home Helpers, employer account number unknown.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/pjs