

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CINDY J GRAVES
Claimant

APPEAL NO. 10A-UI-14738-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

JON L HARDINGER DDS
Employer

**OC: 08/15/10
Claimant: Appellant (1)**

Section 96.5(1) – Quit

STATEMENT OF THE CASE:

The claimant, Cindy Graves, filed an appeal from a decision dated October 20, 2010, reference 01. The decision disqualified her from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on December 16, 2010. The claimant participated on her own behalf. The employer, Jon L. Hardinger DDS (Hardinger), participated by Jon Hardinger.

ISSUE:

The issue is whether the claimant quit work with good cause attributable to the employer.

FINDINGS OF FACT:

Cindy Graves was employed by Hardinger from July 2, 2007 until August 19, 2010 as a full-time dental assistant. Dr. Hardinger met with the claimant on August 19, 2010, to discuss some performance issues that he felt had not improved since her yearly evaluation on July 2, 2010. During the discussion, Ms. Graves stated, "I feel like you're letting me go." Dr. Hardinger replied, "That is my business." The employer acknowledged at the hearing that he was in the process of reorganizing his office staff but no decisions had been made as of August 19, 2010.

The claimant indicated she knew the employer had hired a new person to begin on September 1, 2010, and again the employer said that was his business. She said she felt he needed a new dental assistant and at that point the employer asked her if she would be willing to stay until September 1, 2010, but she declined.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 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.

The claimant maintains she was discharged, but there is nothing in the record to confirm this. It may very well be that she would have been discharged later once the employer had finished with staff evaluations and reorganization, but on August 19, 2010, he did not discharge her. Where an individual mistakenly believes that he is discharged and discontinues coming to work (but was never told he was discharged), the separation is a voluntary quit without good cause attributable to the employer. *LaGrange v. IDJS*, (Unpublished, Iowa App. 1984). The administrative law judge finds the reasoning in that case to be persuasive. The claimant quit without good cause attributable to the employer and she is disqualified.

DECISION:

The representative's decision of October 20, 2010, reference 01, is affirmed. Cindy Graves is disqualified and benefits are withheld until she has earned ten times her weekly benefit amount, provided she is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/kjw