

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SHEGA AHMETI
Claimant

APPEAL NO. 13A-UI-02279-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

SHONDA CLARK
Employer

OC: 01/20/13
Claimant: Appellant (2)

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated February 14, 2013, reference 01, that concluded she voluntarily quit employment without good cause attributable to the employer. A telephone hearing was held on February 14, 2013. The parties were properly notified about the hearing. The claimant participated in the hearing. Shonda Clark participated in the hearing on behalf of the employer.

ISSUE:

Did the claimant voluntarily quit employment without good cause attributable to the employer?

FINDINGS OF FACT:

The claimant worked for the employer as a childcare teacher from June 20, 2012, to January 23, 2013. Shonda Clark is the owner of the business.

On January 23, 2013, Clark instructed employees to clean the toys. One employee had put stuffed animals in the washer. The claimant had taken the stuffed toys out of the washer before it completed the spin cycle. She then put the wet toys into the dryer and put Barbie dolls into the washer.

Clark noticed a clanking noise from the washer and smoke coming from the dryer. When she discovered what happened, she became very angry and upset because she had just purchased the washer and dryer and the toys were damaged. The claimant heard Clark yell: "I should fire whoever did this." Clark did not know it was the claimant and thought someone else had put the stuffed toys in the dryer and Barbie dolls in the washer.

Later that day, Clark decided that because of the low number of children in the Center, she would send someone home earlier. Clark decided to send the claimant sent home early and told a supervisor, Tanika, to tell the claimant to go home. When Clark observed the claimant taking personal items out of her locker, she believed this showed the claimant was quitting, which was not the case. She told the claimant that when she left to make sure she left her keys. The claimant looked at Clark, and Clark said, "I'm sorry." The claimant reasonably believed that

Clark was terminating her employment because she was told to leave, Clark had asked for the claimant's keys, and Clark said she was sorry.

The claimant did not report to work on January 24 or call in because she thought she had been fired. She came into the office on January 25 to get her check. When she told Clark that she was there to pick up her check because she had been fired, Clark told her that she had not been fired. When the claimant asked whether she could return to work on Monday, January 28 since she had not been fired, Clark told her no because she was absent the previous day without calling in. Clark told her to leave.

REASONING AND CONCLUSIONS OF LAW:

The unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer or who are discharged for work-connected misconduct. Iowa Code § 96.5-1 and 96.5-2-a. To voluntarily quit means a claimant exercises a voluntary choice between remaining employed or discontinuing the employment relationship and chooses to leave employment. To establish a voluntary quit requires that a claimant must intend to terminate employment. Wills v. Employment Appeal Board, 447 N.W.2d 137, 138 (Iowa 1989); Peck v. Employment Appeal Board, 492 N.W.2d 438, 440 (Iowa App. 1992).

The findings of fact show how I resolved the disputed factual issues in this case by carefully assessing the credibility of the witnesses and reliability of the evidence and by applying the proper standard and burden of proof. I believe the claimant's testimony that Clark said to the claimant when she left to make sure to leave her keys. Obviously, there was miscommunication but I conclude the claimant's belief that she was fired was more reasonable than Clark's belief that the claimant was quitting. Once Clark learned that the claimant had the mistaken belief that she had been fired, the miscommunication could have been resolved, but Clark decided the claimant could not come back to work.

The next issue in this case is whether the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law.

The rules define misconduct as (1) deliberate acts or omissions by a worker that materially breach the duties and obligations arising out of the contract of employment, (2) deliberate violations or disregard of standards of behavior that the employer has the right to expect of employees, or (3) carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design. Mere inefficiency, unsatisfactory conduct, failure in good performance as the result of inability or incapacity, inadvertencies or ordinary negligence in isolated instances, or good faith errors in judgment or discretion are not misconduct within the meaning of the statute. 871 IAC 24.32(1).

The evidence does not show the claimant committed any deliberate misconduct or repeated negligence equaling willful misconduct in culpability.

DECISION:

The unemployment insurance decision dated February 14, 2013, reference 01, is reversed. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

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