

**IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI**

**PAMELA J GILLESPIE
1525 – 45TH ST
DES MOINES IA 50311-2422**

**BROADLAWNS MEDICAL CENTER
ATTN PERSONNEL DEPT
18TH & HICKMAN
DES MOINES IA 50311-2422**

**Appeal Number: 06A-UI-06955-JTT
OC: 06/04/06 R: 02
Claimant: Respondent (2)**

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Broadlawns Medical Center filed a timely appeal from the June 27, 2006, reference 01, decision that allowed benefits. After due notice was issued, a hearing was held on August 10, 2006. Claimant Pamela Gillespie participated. Broadlawns Attorney Richard Barrett represented the employer and presented testimony through Director of Mental Health Services Joann Christensen, Program Director Chemical Dependency Fred Knapp, Chemical Dependency Counselor Pat Rice-Larimer, and former Addiction Treatment Supervisor Paul Hanna. Employer's Exhibit One and Claimant's Exhibit A were received into evidence. The administrative law judge took official notice of the Agency's records regarding benefits disbursed to the claimant.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: During Pamela Gillespie's most recent period of employment with Broadlawns Medical Center, Ms. Gillespie worked approximately three years as a full-time chemical dependency counselor until she resigned on May 11, 2006. On May 11, 2006, Director of Mental Health Services Joann Christensen and Program Director Chemical Dependency Fred Knapp convened a meeting with Ms. Gillespie to discuss multiple complaints they had received concerning Ms. Gillespie's workplace behavior and demeanor. A common theme in the complaints was a concern about Ms. Gillespie's abrasive demeanor, her habit of challenging the competence and/or work ethic of the other professionals with whom she interacted in the workplace. The employer convened the meeting to begin its investigation into the complaints and to assist Ms. Gillespie in making positive changes. During the meeting, Ms. Gillespie presented a written resignation she had prepared earlier the same day. Ms. Gillespie had a strong difference of opinion with her colleagues regarding how best to provide chemical dependency treatment. Ms. Gillespie believed her colleagues bore her ill will and that they were harassing and/or abusing her. Ms. Gillespie was upset that the employer had asked her not to abbreviate significant information on forms to be submitted for court proceedings. Ms. Gillespie was upset by dismissive remarks she believed a colleague had directed toward her.

Ms. Gillespie established a claim for benefits that was effective June 4, 2006 and has received benefits.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence in the record establishes that Ms. Gillespie voluntary quit was for good cause attributable to the employer. It does not.

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.

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.

Quits due to intolerable or detrimental working conditions are deemed to be for good cause attributable to the employer. See 871 IAC 24.26(4). The test is whether a reasonable person would have quit under the circumstances. See Aalbers v. Iowa Department of Job Service, 431 N.W.2d 330 (Iowa 1988) and O'Brien v. Employment Appeal Bd., 494 N.W.2d 660 (1993). Aside from quits based on medical reasons, prior notification of the employer before a resignation for intolerable or detrimental working conditions is not required. See Hy-Vee v. EAB, 710 N.W.2d (Iowa 2005).

On the other hand, quits prompted by dissatisfaction with the work environment, personality conflict with a coworker or supervisor, or in response to a reprimand are presumed to be without good cause attributable to the employer. See 871 IAC 24.25(21), (22) and (28).

The evidence in the record fails to establish intolerable or detrimental working conditions that would have prompted a reasonable person to quit the employment. Instead, the evidence indicates that Ms. Gillespie had difficulty interacting with her professional colleagues when they did not share her philosophy and/or priorities. The evidence further indicates that Ms. Gillespie was quick to challenge others' conduct, but could not tolerate the same sort of scrutiny being directed at her own behavior. Ms. Gillespie quit due to dissatisfaction with the work environment, which included dissatisfaction with her coworkers and dissatisfaction with her supervisors. Ms. Gillespie quit in response to what she perceived to be an attack on her integrity and mental health, but what was in reality at most a mild reprimand for discourteous behavior.

The administrative law judge found Ms. Gillespie's testimony emotionally charged, replete with hyperbole, and inconsistent with the greater weight of the evidence. On the other hand, each of the employer's witnesses provided testimony that was balanced, internally consistent, and consistent with testimony provided by the employer's other witnesses. The administrative law judge found Ms. Gillespie's testimony, especially as it concerned verbal or physical mistreatment by her colleagues, not credible.

Based on the evidence in the record and application of the appropriate law, the administrative law judge concludes that Ms. Gillespie voluntarily quit the employment without good cause attributable to the employer. Accordingly, Ms. Gillespie is disqualified for benefits until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. The employer's account shall not be charged for benefits paid to Ms. Gillespie.

Iowa Code section 96.3-7 provides:

7. Recovery of overpayment of benefits. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

Because Ms. Gillespie has received benefits for which she has been deemed ineligible, those benefits constitute an overpayment, which Ms. Gillespie must repay to Iowa Workforce Development. Ms. Gillespie is overpaid \$3,240.00.

DECISION:

The Agency representative's June 27, 2006, reference 01, decision is reversed. The claimant voluntarily quit the employment without good cause attributable to the employer. The claimant is disqualified for benefits until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. The employer's account shall not be charged. The claimant is overpaid \$3,240.00.

jt/pjs