

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Karen Cutler was employed by Floyd County from July 1 until August 16, 2005. She was a part-time staff nurse working 24 hours per week.

On August 16, 2005, Administrator Pat Zwanziger met with the claimant to discuss two incidents of inappropriate language and unprofessional conduct in the past two weeks. On August 3, 2005, a company had come to the office to install a new storage unit in Ms. Cutler's work area and she said she was busy and to "get the hell" out of her area. The vendor left without installing the unit, even though other staff persons volunteered to help the claimant clear off the shelves to be replaced. The vendor also called and complained about the treatment by Ms. Cutler.

On August 10, 2005, a new time-study system was being implemented and the claimant was advised at that time she should begin using the new system immediately. She became argumentative, insisting she did not have the time to do this, was "not good with numbers," and the matter should be taken up at the staff meeting scheduled for the next week. When others offered to help her with the new system she told them to "get the hell out of [her] office."

Ms. Zwanziger intended to issue a written warning to the claimant about these incidents when she met with her on August 16, 2005. Before that could occur, they discussed the stress being put on Ms. Cutler by the new merger which became effective July 1, 2005, she was concerned about her health and asked the administrator what she wanted her to do. Ms. Zwanziger said she thought it would be a good idea for Ms. Cutler to quit. The claimant said if that was what the employer wanted her to do, she would quit, and submitted a brief written resignation.

Karen Cutler filed a claim for unemployment benefits with an effective date of September 11, 2005. The records of Iowa Workforce Development indicate no benefits have been paid as of the date of the hearing.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant is disqualified. The judge concludes she is.

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.

871 IAC 24.26(21) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

- (21) The claimant was compelled to resign when given the choice of resigning or being discharged. This shall not be considered a voluntary leaving.

The claimant insists she was given the choice of resigning or being discharged. However, the record does not support this contention. The employer intended to discipline Ms. Cutler for violations of the work rules regarding obscene or inappropriate language, but that was all. When the claimant asked the employer what the employer wanted her to do, the administrator answered honestly that she wanted Ms. Cutler to resign. This is not a threat of discharge, merely an honest answer to a question from a person who had obviously generated a lot of ill will in the office during her short tenure. This is not the same as giving her a choice between quitting and being fired.

It is fairly apparent the claimant might very well have been discharged eventually if her attitude and conduct did not improve, but she was not in danger of being fired on August 16, 2005. Her decision to quit may have been based on her belief she was being threatened with discharge, but her perception was incorrect and has no basis in fact. The resignation is without good cause attributable to the employer and she is disqualified.

DECISION:

The representative's decision of October 6, 2005, reference 01, is reversed. Karen Cutler is disqualified and benefits are withheld until she has earned ten times her weekly benefit amount provided she is otherwise eligible.

bgh/kjw