

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**PAULA FROST**  
Claimant

**APPEAL NO. 13A-UI-06449-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**FIRST ADMINISTRATORS INC**  
Employer

**OC: 04/28/13**  
**Claimant: Appellant (1)**

Section 96.5(1) – Voluntary Quit

**STATEMENT OF THE CASE:**

Paula Frost filed a timely appeal from the May 13, 2013, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on July 8, 2013. Ms. Frost participated. The employer did not provide a telephone number for the hearing, but provided a packet of materials in lieu of participating in the hearing. The packet was received into the record as Exhibit One. Exhibits A through G and I were received into evidence.

**ISSUE:**

Whether Ms. Frost's voluntary quit was for good cause attributable to the employer.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Paula Frost was employed by First Administrators, Inc., as a full-time document analyst from 1999 until March 25, 2013, when she voluntarily quit. Ms. Frost provided the employer with a resignation letter on March 8, 2013 and at that time indicated that April 1, 2013 would be her effective quit date. Ms. Frost put in her resignation memo that she was willing to stay until May 1, 2013, provided the employer gave March 18-22, 2013 off. Ms. Frost ended up making her quit effective March 25, 2013.

Ms. Frost submitted her resignation in response to the employer's denial of her request for March 18-22, 2013 off. Ms. Frost had 125 hours of accrued Paid Time Off (PTO). Ms. Frost had made the request on February 18, 2013. On February 25, 2013, Ms. Frost's new supervisor, Diane VonHagel, notified Ms. Frost that the request could not be granted because Ms. Frost's department was behind on its work. The supervisor told Ms. Frost she would not be allowed to take time off until her department got caught up. Ms. Frost's work area had very few staff members and was perpetually behind. Ms. Frost appealed the supervisor's decision to Emily Hoch, Departmental Director, but Ms. Hoch affirmed the decision to deny the request for time off. Ms. Frost asserts that she hoped to use a portion of the request time for medical appointments. Ms. Frost had not yet made the appointments. Ms. Frost had not told the employer she wanted the time for medical appointments. Though Ms. Frost was working in

Sioux City at the time of the request, she wanted to go back to South Dakota, 450 miles away, for the medical appointments, rather than schedule them in Sioux City.

On March 25, 2013, Ms. Frost met with Ms. VonHagel and Ms. Hoch. During that meeting, the employer questioned Ms. Frost's time-keeping practices and this offended Ms. Frost. Ms. Frost decided to make March 25, 2013 her last day.

Ms. Frost had started with the employer in Rapid City, South Dakota and had lived in Sturgis, South Dakota. In 2012, Ms. Frost's position was transferred to the employer's Sioux City office. Ms. Frost elected to follow the position to Sioux City and made that transition in September 2012. Ms. Frost continued to maintain a home in Sturgis and her husband continued to reside in the family home. When Ms. Frost was in Sioux City, she lived in a trailer parked in a Sioux City campground. Ms. Frost would generally return home to Sturgis one week per month. The employer had allowed Ms. Frost to be off work for the period of December 21, 2012 through January 1, 2013 in connection with the holidays. The employer had also approved time for the week of February 11-15, 2013. However, Ms. Frost ended up working out of the employer's Rapid City office two or three of those days. The employer had previously approved Ms. Frost for FMLA in connection with her husband's 2011 cancer diagnosis. As of January 2013, Ms. Frost's husband was determined to be cancer-free and the FMLA leave approval ended.

#### **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.

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).

The question is whether the employer's denial of the request for March 18-22, 2013 off created intolerable or detrimental working conditions. It did not. The evidence indicates that the employer had provided Ms. Frost with liberal amount of time off in the past. Ms. Frost indicates she went home one week a month. Ms. Frost also indicates that the employer had made this allowance despite the fact that the department's work was not getting done. The employer's denial of this one request for time off did not constitute an intolerable or detrimental working condition. The evidence indicates that Ms. Frost never told the employer she needed the time for medical appointments, so that was not a factor in the denial.

Ms. Frost voluntarily quit the employment without good cause attributable to the employer. Accordingly, Ms. Frost 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.

**DECISION:**

The agency representative's May 13, 2013, reference 01, decision is affirmed. 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.

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James E. Timberland  
Administrative Law Judge

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Decision Dated and Mailed

jet/pjs