

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BENJERMEN PIKLAPP

Claimant

APPEAL NO: 06A-UI-10843-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

THE CRITTENTON CENTER

Employer

**OC: 10/08/06 R: 01
Claimant: Respondent (1)**

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

The Crittenton Center (employer) appealed an unemployment insurance decision dated November 1, 2006, reference 01, which held that Benjermen Piklapp (claimant) was eligible for unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on November 28, 2006. The claimant participated in the hearing. The employer participated through Cari McDermott, Human Resources Coordinator and Ed Huff, Shelter Program Director. Claimant's Exhibit A was admitted into evidence. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

The issue is whether the claimant's voluntary separation from employment qualifies him to receive unemployment insurance benefits.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The employer is an at-risk youth shelter for children up to 17 years of age. The claimant was employed as a full-time youth counselor from March 14, 2005 through October 5, 2006 when he voluntarily quit his employment. The job appears to be a demanding job for anyone but the stress of the work environment was affecting the claimant outside of work hours. The claimant was concerned for his own safety and that of other staff and residents. He said they had recently had a safety meeting to address some of these concerns. The final incident occurred on approximately September 15, 2006 when a 17-year-old male "jammed his palms" in the claimant's face after pushing the claimant against a wall. There were other staff members present but they took no action to intervene and the claimant finally called the police. The youth was arrested and removed that evening but was returned to the facility the next morning without any loss of privileges. The claimant felt he was not being supported by management. The employer believes the claimant escalated the situation by telling the youth he was "acting like an ass." The claimant put in his written resignation approximately one week after this incident when no action was taken against the male youth.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant's voluntary separation from employment qualifies him to receive unemployment insurance benefits. He is not qualified to receive unemployment insurance benefits if he voluntarily quit without good cause attributable to the employer. Iowa Code section 96.5-1.

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980) and Peck v. Employment Appeal Bd., 492 N.W.2d 438 (Iowa Ct. App. 1992). The claimant demonstrated his intent to quit and acted to carry it out by providing the employer with a written resignation. He quit because of the precarious and stressful work environment; no employee has to tolerate being assaulted at work. "Good cause" need not be based on fault or wrongdoing on the part of the employer, but may be attributable to the employment itself. Raffety v. Iowa Employment Security Commission, 76 N.W.2d 787 (Iowa 1956). While the claimant's separation is due to his employment, the administrative law judge acknowledges the employer is doing its best in a difficult situation and the nature of its business dictates that occasionally an assault may occur.

It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify him. Iowa Code section 96.6-2. He has satisfied that burden and benefits are allowed.

DECISION:

The unemployment insurance decision dated November 1, 2006, reference 01, is affirmed. The claimant voluntarily quit his employment with good cause attributable to the employer and is qualified to receive unemployment insurance benefit, provided he is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/pjs