

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TINA TORGERSON
Claimant

APPEAL NO. 09A-UI-02804-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

COVENANT MEDICAL CENTER
Employer

**Original Claim: 01/25/09
Claimant: Appellant (1)**

Iowa Code § 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Tina Torgerson (claimant) appealed an unemployment insurance decision dated February 13, 2009, reference 01, which held that she was not eligible for unemployment insurance benefits because she voluntarily quit her employment with Covenant Medical Center (employer) without good cause attributable to the employer. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on March 17, 2009. The claimant participated in the hearing. The employer participated through Missy Santman, Director of Human Resources. Employer's Exhibit One 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 her to receive unemployment insurance benefits.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds that: The claimant was employed as a full-time clinical supervisor for respiratory care from February 1, 1988 through January 26, 2009, when she voluntarily quit her employment. During January 2009, the employer realized the claimant's mileage expenses for the last six months were over \$4,000.00. All supervisors had been advised to use company cars when possible and the claimant was not doing this. The claimant's mileage expenses far exceeded other employees' expenses when comparing other employees with the same job duties. One employee, whose main responsibility was traveling, had over \$2,000.00 less in mileage expenses. The employer began to investigate the claimant's expenses and found 14 days for which she claimed expenses on days she did not work. These dates began on June 27, 2008 and went through January 2, 2009. The employer suspended the claimant on January 22, 2009 pending further investigation.

Employees use a time clock to log in and out of work. The claimant had not worked any of these 14 days but did file for vacation on some of them. The employer reviewed all records to

search for an electronic stamp that showed the claimant was working. They looked through computer log-ins and blood gas machine logs, etc. The employer asked the claimant to provide supporting documentation but she could not do so. The claimant was asked if she spoke with anyone or saw anyone on any of those days but the claimant could not remember seeing anyone. The employer met with the claimant on January 26, 2009 to discuss the situation and the employer was going to discharge her for falsifying mileage reports. Before the meeting was adjourned, the claimant pulled out a voluntary resignation from her purse and handed it to the employer. She thought a voluntary quit would look better on her record than a discharge.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the reasons for the claimant's separation from employment qualify her to receive unemployment insurance benefits. The claimant is not qualified to receive unemployment insurance benefits if she voluntarily quit without good cause attributable to the employer or if the employer discharged her for work-connected misconduct. Iowa Code §§ 96.5-1 and 96.5-2-a.

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 her intent to quit and acted to carry it out when she handed the employer a resignation notice. She opted to quit because she was going to be discharged for falsifying mileage reports.

It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify her. Iowa Code § 96.6-2. There is sufficient evidence to establish the claimant's discharge would have been due to work-related misconduct. Consequently, her voluntary separation was without good cause attributable to the employer. Benefits are denied.

DECISION:

The unemployment insurance decision dated February 13, 2009, reference 01, is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until she has worked in and has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/kjw