

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

PATRICIA L SARAZIN
Claimant

APPEAL NO. 09A-UI-10521-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

AREA RESIDENTIAL CARE INC
Employer

OC: 05/31/09
Claimant: Appellant (1)

Iowa Code Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Patricia Sarazin filed a timely appeal from the July 14, 2009, reference 02, decision that denied benefits. After due notice was issued, a hearing was held on August 7, 2009. Ms. Sarazin participated. Elly Day, Director of Residential Services, represented the employer and presented additional testimony through Individual Program Coordinator Lynae Duffy. Exhibits One and Two were received into evidence. In entering this decision, the administrative law judge has taken official notice of the Agency's administrative records that indicate this employer is the claimant's only base period employer.

ISSUE:

Whether the claimant'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: Patricia Sarazin was employed by Area Residential Care, Inc. as a Community Living Instructor. Ms. Sarazin's duties involved providing mentally and/or physically disabled adult clients with support and services that would allow the clients to live most independently in the community. Ms. Sarazin provided these services in a home setting. At the beginning of the employment, Ms. Sarazin was a part-time employee. From May 2007 until April 24, 2008, Ms. Sarazin was a full-time employee. At the end of April 2008, Ms. Sarazin requested to return to part-time status because she was a full-time student. Ms. Sarazin last performed work for the employer on July 26, 2008. On July 28, 2008, Ms. Sarazin resigned from the employment, with the resignation to be effective immediately.

Until April 24, 2008, Ms. Sarazin's immediate supervisor was Individual Program Coordinator Becky Menster. Ms. Sarazin had an ongoing personality conflict with Ms. Menster and perceived Ms. Menster's exercise of supervision over her employment as harassment.

In connection with the return to part-time status, Individual Program Coordinator Lynae Duffy became Ms. Sarazin's immediate supervisor. Thereafter, Ms. Sarazin filled in a few times at the home supervised by Ms. Menster.

On July 26, 2008, Ms. Duffy telephoned Ms. Sarazin to arrange an appointment to discuss an alleged consumer rights violation that arose from Ms. Sarazin's work in the home supervised by Ms. Menster. Ms. Sarazin was the party alleged to have violated the consumer's rights. The employer's work rules required that the alleged violation be investigated. When Ms. Duffy made contact with Ms. Sarazin, she indicated that she wanted to talk to Ms. Sarazin about "concerns" that had come to her attention. Ms. Duffy gave no indication at that time as to how the concerns that come to her attention or whether Ms. Menster had a role in bringing the concerns to her attention. Ms. Duffy made arrangements with Ms. Sarazin to meet on July 28 at 3:30 p.m. for an investigative interview. Ms. Sarazin gave no indication at that time regarding whether she intended to appear for the investigative interview.

Ms. Sarazin did not appear for the investigative interview on July 28. Instead, on the morning of July 28, Ms. Sarazin went to the employer's office, requested a resignation form from Ms. Menster, completed the resignation form, and delivered it to Ms. Menster. Ms. Menster forwarded the document to Anne McGhee, Director, who accepted the resignation. On July 29, Deb Campbell, Human Resources Assistant, prepared a memo formally accepting Ms. Sarazin's resignation.

At the time Ms. Sarazin resigned from the employment, the employer continued to have work available for Ms. Sarazin and had taken no steps to discharge her from the employment.

Workforce Development records indicate that Area Residential Care, Inc., is Ms. Sarazin's sole base period employer.

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.

The weight of the evidence in the record establishes that Ms. Sarazin voluntarily quit for personal reasons and not for a good cause attributable to the employer. At the time Ms. Sarazin resigned from the employment, the employer had provided her with no indication that the consumer rights violation it was investigating had been initiated by Ms. Menster. Regardless, there is no indication that the employer's investigation of the consumer rights violation had anything to do with alleged harassing behavior on the part of Ms. Menster. Ms. Sarazin resigned to avoid participating in the investigation. Ms. Sarazin was the party alleged to have violated the consumer's rights.

Based on the evidence in the record and the applicable law, the administrative law judge concludes that Ms. Sarazin voluntarily quit the employment without good cause attributable to

the employer. Accordingly, Ms. Sarazin 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. Sarazin.

An individual who voluntarily quits part-time employment without good cause attributable to the employer and who has not re-qualified for benefits by earning ten times her weekly benefit amount in wages for insured employment, but who nonetheless has sufficient other wage credits to be eligible for benefits may receive reduced benefits based on the other base period wages. See 871 IAC 24.27.

Workforce development records indicate that this employer is Ms. Sarazin's only base period employer. Accordingly, there would be no other base period wage credits upon which reduced benefits could be based.

DECISION:

The Agency representative's July 14, 2009, reference 02, 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.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/pjs