

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ADRIENNE M DAVIS**  
Claimant

**APPEAL NO. 11A-UI-15206-VS**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CITY OF CLINTON IA HOUSING AUTH**  
Employer

**OC: 10/23/11  
Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Quit

**STATEMENT OF THE CASE:**

The claimant filed an appeal from a representative's decision dated November 14, 2011, reference 01, which held the claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on January 12, 2012, in Davenport, Iowa. The claimant participated. Teresa Davis, the claimant's mother, was a witness for the claimant. The employer participated by Deb Vath, executive director of the City of Clinton Housing Authority, and Mary Ries, director of the Stay N Play childcare center and preschool. Jill Bradley, Megan Comstock, and Richard Roberts were witnesses for the employer. The record consists of the testimony of Adrienne Davis; the testimony of Teresa Davis; the testimony of Deb Vath; the testimony of Mary Ries; the testimony of Jill Bradley; the testimony of Megan Comstock; the testimony of Richard Roberts; and Employer's Exhibits 1 through 10.

**ISSUE:**

Whether the claimant voluntarily quit for good cause attributable to the employer.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony of the witnesses and having considered all of the evidence in the record, makes the following findings of fact:

The employer provides rental assistance for low income families. In 1993, the employer received funds to construct a child care facility and preschool. The claimant was hired on June 28, 2010, as a child care provider. She was a part-time employee. In March 2011, she became an assistant preschool teacher. She was still a part time employer and worked from 9:00 a.m. to 3:30 p.m., five days a week. Her last day of work was October 25, 2011.

On October 25, 2011, the claimant was asked to come to a meeting with Deb Vath and Richard Roberts. Mr. Roberts is chairman of the board of commissioners for the housing authority. Ms. Vath called the meeting because she had a write-up that she wanted to give the claimant. There were two reasons for the write-up. The first reason was unauthorized use of a personal cell phone at work and the second reason was the claimant's inappropriate and unprofessional interaction with her supervisor, Mary Ries.

On October 20, 2011, a parent made a complaint to Megan Comstock, who was the four-year-old preschool teacher. The parent had seen Facebook postings made by the claimant that were critical of the employer. In addition, some of the postings were made during the claimant's regular work hours. The parent wanted to know why the claimant would be using Facebook when she was supposed to be working. Use of a cell phone during work hours was prohibited by the employer. A specific written policy was in place and the claimant was aware of the policy. The employer asked the parent to bring in the Facebook postings and the parent did so.

The atmosphere at the employer had been tense during the summer of 2011. The claimant had filed a complaint with Department of Human Services concerning Ms. Ries. One of the children who attended the facility had behavioral issues, and there was much concern among the staff on how to serve this particular child. Advice had been sought from professionals and there was an evaluation in Iowa City. The claimant did not agree with how this child was being taken care of by the employer and she filed a complaint. The claimant was not terminated by the employer because she filed the complaint.

The other source of tension concerned the claimant's own child, who attended the center. The claimant's child had behavioral problems, primarily crying and screaming. The employer's policy was to write a report if a behavior was particularly difficult. One report was written on the claimant's daughter after she refused to lay down for a nap during nap time. Iowa law requires that children be provided a nap period by child care providers. The claimant tore up the report concerning her daughter's behavior.

The claimant's behavior at work was troubling to the employer. She was "snippy" and her body language, such as failing to make eye contact with her supervisor, made it difficult to work with her. One particular incident occurred during a field trip to the Pumpkin Patch. The children and staff went on the field trip, as well as several volunteers. During that field trip, the claimant yelled at some other staff members that they both needed to learn how to take care of children. This comment was heard by staff and parent volunteers.

The claimant came to the meeting with Ms. Vath and Mr. Roberts. Mr. Roberts was present as a witness only. Ms. Vath gave the claimant the write up and the claimant was permitted to make a written response to the write up. The claimant denied using her cell phone, except to check time. She was also stated: "As for being in appropriate and disrespectful toward Mary. I feel I have been giving her the same respect she has been giving me since May which is none." (Exhibit 2) The claimant was not terminated at this meeting. The employer had no plans to terminate the claimant.

The claimant left the meeting. She was upset. The claimant talked to another staff member, Jill Bradley. Ms. Bradley is not a supervisor. The claimant told Ms. Bradley that she did not know what to do. Ms. Bradley told that claimant that she had to do what her heart tells her to do. The claimant then said that she had to leave and that she could not do this anymore. The claimant left the building and got into her car and left. No one knew she was gone. She did not have permission to leave. The claimant did not go to work the next day. On October 27, 2011, she received a letter from the employer that was dated October 25, 2011. Ms. Vath wrote the following:

This letter is to serve as my understanding of your actions today.

At approximately 1:30 p.m. you walked off the job at Stay N Play leaving the Center short staffed for caring for the children without notifying either me or your supervisor.

I'm considering this action as your resignation without notice.

(Exhibit 3)

Work was available for the claimant had she elected to stay at work and come to work.

### **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.

871 IAC 24.25(21), (22), (27), (28) provides:

Voluntary quit without good cause. 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 from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(21) The claimant left because of dissatisfaction with the work environment.

(22) The claimant left because of a personality conflict with the supervisor.

(27) The claimant left rather than perform the assigned work as instructed.

(28) The claimant left after being reprimanded.

A quit is a separation initiated by the employee. 871 IAC 24.1(113)(b). 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 greater weight of the credible evidence in this case is that the claimant initiated the separation of employment. The claimant testified that she was upset by the reprimand, which she felt was unfair. She also said she told both Ms. Ries and Ms. Bradley that she was going home because she was sick. She did not come back to work the next day because Ms. Bradley

told her at a football game that it was not in her best interest to come back, since she was going to be terminated.

The claimant's testimony is not credible and is rejected. The claimant likely was upset by the reprimand, but her testimony that she told the employer she was leaving and why is not credible. First, Ms. Bradley, who was a credible witness, denied that the claimant told her that she was leaving. Ms. Bradley did not even know that the claimant had left. She also denied that she told the claimant at a football game that it was not in her best interest to return because she was going to be terminated. Ms. Bradley was not a supervisor and did not make management decisions about personnel. Ms. Vath, Ms. Ries, and Ms. Bradley all testified that there was no meeting between them where she was told the claimant was going to be terminated.

A particularly telling exchange occurred when the claimant was questioning Ms. Bradley. The claimant asked Ms. Bradley if she remembered the claimant saying the following: "I have to leave—I can't do this anymore." Ms. Bradley denied hearing that. This question from the claimant is very revealing about her conduct that day. It shows that she no longer wanted to work for the employer. The reprimand was for her, the "final straw." Reprimands are never pleasant, particularly when an individual feels that the reprimand is unfair. Quitting in response to a reprimand is not good cause attributable to the employer.

The totality of the claimant's actions shows that she had become dissatisfied with the work environment. She did not respect her supervisor, Ms. Ries, and acknowledged that she treated her supervisor with the same respect that she felt she was given. Postings were made on her Facebook page that were critical of the employer. She yelled at staff members and could not professionally interact with the staff concerning her own child. She made the decision to leave the premises without permission on October 25, 2011. She abandoned her job.

The administrative law judge concludes that the claimant voluntarily left without good cause attributable to her employer. Benefits are denied.

**DECISION:**

The representative's decision dated November 14, 2011, reference 01, is affirmed. Unemployment insurance benefits shall be withheld until the claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

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Vicki L. Seeck  
Administrative Law Judge

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Decision Dated and Mailed

vls/kjw