

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CALLISTA K HILL
Claimant

APPEAL NO. 07A-UI-01543-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

FRANCIS LAUER YOUTH SERVICES INC
Employer

OC: 12/31/06 R: 02
Claimant: Appellant (4)

Section 96.5(1)(a) – Voluntary Quit to Accept Other Employment

STATEMENT OF THE CASE:

Callista Hill filed a timely appeal from the February 8, 2007, reference 03, decision that denied benefits. After due notice was issued, a hearing was held on February 28, 2007. Ms. Hill participated. Tracy Peet, Client Services Manager, represented the employer and presented additional testimony through Tina Cullinan, Assistant Operations Manager. The hearing in this matter was consolidated with the hearing in Appeal Number 07A-UI-01544-JTT. The administrative law judge took official notice of the Agency's record of benefits disbursed to the claimant and received employer's Exhibits One, Three, Four and Five into evidence.

ISSUES:

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

Whether the claimant left the employment for the sole purpose of accepting other employment.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Callista Hill was employed by Francis Lauer Youth Services as a part-time Skill Development Specialist from May 22, 2006 until November 8, 2006, when she voluntarily quit to accept other employment. Ms. Hill quit the employment because the hours conflicted with her primary employment at Nurse Finders. Prior to resigning, Ms. Hill had accepted an offer of employment at JC Penney. Ms. Hill commenced her employment at JC Penney on November 9.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5-1-a 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. But the individual shall not be disqualified if the department finds that:

a. The individual left employment in good faith for the sole purpose of accepting other or better employment, which the individual did accept, and the individual performed services in the new employment. Benefits relating to wage credits earned with the employer that the individual has left shall be charged to the unemployment compensation fund. This paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

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 evidence in the record indicates that Ms. Hill voluntarily quit the employment to accept other employment. The voluntary quit was without good cause attributable to the employer. Therefore, the employer's account will not be charged for benefits paid to Ms. Hill. Because Ms. Hill quit to accept other employment, the quit would not disqualify Ms. Hill for benefits. Ms. Hill is eligible for benefits, provided she is otherwise eligible.

DECISION:

The Agency representative's February 8, 2007, reference 03, decision is modified. The claimant is eligible for benefits, provided she is otherwise eligible. The employer's account shall not be charged.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/css