

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BARBARA J BENTELE

Claimant

APPEAL NO. 11A-UI-05873-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

HCM INC

Employer

OC: 04/03/11

Claimant: Appellant (1)

Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Barbara Bentele filed an appeal from a representative's decision dated April 27, 2011, reference 01, which denied benefits based on her separation from HCM, Inc. After due notice was issued, a hearing was held by telephone on May 31, 2011. Ms. Bentele participated personally. The employer participated by Kathy Baldwin, director of nursing, and Daniel Schlup, administrator.

ISSUE:

At issue in this matter is whether Ms. Bentele was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

Having heard the testimony and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Bentele began working for HCM, Inc. in September of 2009 as a full-time registered nurse. Her last day of work was April 4, 2011, at which point she was a full-time charge nurse. She notified the employer by telephone on April 4 that she was quitting because she was no longer comfortable working with another employee, Dennis. The employer had called her in that morning to address a complaint of resident abuse against her. Ms. Bentele believed Dennis had falsely reported that she abused a resident. The employer wanted her to reconsider her decision to leave and discuss other options, but she declined.

Earlier during her shift on April 4, Dennis had approached Ms. Bentele in anger. He accused her of trying to make trouble where there was none. He made reference to something being "bullshit." Ms. Bentele walked away from him. Although his tone was angry, Dennis did not make any threatening remarks or gestures. He was apparently upset by notations made by Ms. Bentele concerning his failure to turn and change residents as he charted he had during the weekend. Ms. Bentele had not previously notified the employer that she was considering quitting for any work-related reason. Continued work would have been available if she had not quit.

REASONING AND CONCLUSIONS OF LAW:

An individual who leaves employment voluntarily is disqualified from receiving job insurance benefits unless the quit was for good cause attributable to the employer. Iowa Code section 96.5(1). Ms. Bentele quit because she felt Dennis created a hostile work environment. Although he spoke to her in an angry tone, his conduct was not so outrageous as to constitute good cause attributable to the employer for quitting. He did not threaten harm to her or make any threatening gestures. There was no name-calling. His only profanity was not directed to Ms. Bentele but made in reference to the situation. Although his actions may have merited a reprimand, it did not constitute good cause for quitting.

The administrative law judge appreciates that there were also issues surrounding Dennis' work habits. These were matters that should be addressed through disciplinary action. He had only been on the job two months. The evidence failed to establish that his performance was so substandard as to compromise Ms. Bentele's overall accountability for those working under her. It appears that the employer stood ready to at least discuss possible alternatives to Ms. Bentele quitting. However, she did not avail herself of this opportunity.

After considering all of the evidence and the contentions of the parties, the administrative law judge concludes that Ms. Bentele voluntarily quit her employment with HCM, Inc. without good cause attributable to the employer. Accordingly, benefits are denied.

DECISION:

The representative's decision dated April 27, 2011, reference 01, is hereby affirmed. Ms. Bentele quit her employment without good cause attributable to the employer. Benefits are denied until she has worked in and been paid wages for insured work equal to ten times her weekly job insurance benefit amount, provided she is otherwise eligible.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/kjw