

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DAWN FRAISE
Claimant

APPEAL NO. 08A-UI-11577-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

FORT MADISON COMMUNITY HOSPITAL
Employer

**OC: 11/16/08 R: 04
Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Dawn Fraise filed an appeal from a representative's decision dated December 9, 2008, reference 01, which denied benefits based upon her separation from Fort Madison Community Hospital. After due notice was issued, a hearing was held by telephone on December 23, 2008. Ms. Fraise participated personally. The employer participated by Linda Rickelman and Stephanie Meyers.

ISSUE:

At issue in this matter is whether the claimant quit for good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge having heard the testimony and considered all of the evidence in the record, finds: The claimant worked for this employer from November 1, 2007 until November 14, 2008. Ms. Fraise last held the position of switchboard operator on a full-time basis and was paid by the hour. The claimant had initially been hired as a scheduler for doctors in the facility's clinic but had been transferred to the switchboard position on a "trial" basis. As time progressed the claimant remained in the switchboard position, although she from time to time indicated to her immediate supervisor her desire to switch to a different position within the hospital as the claimant felt that her performance was less than satisfactory. The employer considered the claimant's switchboard performance to be very good and the claimant remained in that position until leaving her employment.

The employer had made efforts to open a different position for Ms. Fraise that would suit the claimant's preferences, however, the position had not opened at the time that the claimant left employment. In her statement of resignation to the employer the claimant cited stress and not enough help with the switchboard position. Ms. Fraise did not indicate that she was leaving because she had not been returned to her original position by the employer.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence in the record establishes that Ms. Fraise quit employment with good cause attributable to the employer. It does not.

Based upon the evidence in the record the administrative law judge concludes that the claimant had in effect accepted the transfer to the position of switchboard operator after remaining in that position for an extended period of time. Although the record in the case of the claimant at times complained about the job position, the record does not establish that Ms. Fraise clearly indicated to her employer that she would quit her job if she were not returned to her original position or that she felt that the "trial" period had unfairly been extended into permanent employment.

The evidence in the record establishes that although Ms. Fraise felt that her job performance was less than satisfactory, the employer felt that she was performing a very good job in the position and that work continued to be available to the claimant at the time of leaving. The claimant was not on disciplinary action and her job was not in jeopardy.

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(33) 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:

(33) The claimant left because such claimant felt that the job performance was not to the satisfaction of the employer; provided, the employer had not requested the claimant to leave and continued work was available.

For the reasons state herein the administrative law judge concludes that the claimant voluntarily quit employment for reasons not attributable to the employer.

DECISION:

The representative's decision dated December 9, 2008, reference 01, is affirmed. Claimant voluntarily quit employment for reasons not attributable to the employer. Unemployment insurance benefits are withheld until the claimant has worked in and been paid wages for

insured work equal to ten times claimant's weekly benefit amount, providing that she is otherwise eligible.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

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