

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

PATRICIA POKORNY
Claimant

APPEAL NO: 12A-UI-10292-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

IA DEPT OF HUMAN SVCS/GLENWOOD
Employer

OC: 07-29-12
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the August 17, 2012, reference 01, decision that denied benefits. After due notice was issued, a telephone hearing was held before Administrative Law Judge Julie Elder on September 24, 2012. The claimant participated in the hearing. Pam Stipe, Public Service Supervisor III; Kelly Robinson, Public Service Executive III; and Sandra Linsin, Employer Representative, participated in the hearing on behalf of the employer.

ISSUE:

The issue is whether the claimant voluntarily left her employment with good cause attributable to the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time resident treatment worker in a waiver home for Iowa Department of Human Services/Glenwood from January 24, 2000 to July 10, 2012. The claimant previously worked as a resident treatment worker in a different setting that did not involve a waiver home. She requested a transfer to a waiver home because the house she previously worked in was chaotic and if she moved to a waiver home, she could keep her day shift hours and her pay would remain the same. After she started working at the waiver home, she “hated it” and the way it was run. She was dissatisfied with having to use her own vehicle to transport clients when a state van was unavailable and she was concerned about insurance and liability issues. The claimant complained about having to use her own vehicle and was told to use the state van but used her car anyway when a state van was not available. She was never disciplined for using her own vehicle. The claimant was also unhappy with co-worker Vicki, who had been at the waiver house for several years and, in the claimant’s opinion, acted like she was the boss at that house. Vicki told the claimant how to perform certain tasks and what the expectations in a waiver house were and while the claimant felt Vicki was “bossy,” she concedes Vicki could have simply been attempting to train the claimant regarding how the waiver home was to be run. The claimant worked 12-hour days Monday through Thursday and was then off Friday, Saturday and Sunday each week. She “dreaded” coming back to the waiver home after her three days off work. There were also more changes implemented on a

more frequent basis at the waiver home. Approximately two weeks before the claimant submitted her resignation, which was effective immediately, she had a doctor's note excusing her from work for two weeks due to stress. During the second week she was off work, she contacted the employer about an immediate administrative transfer. While the employer was not necessarily opposed to the transfer, it usually took at least two to four weeks to complete under the best of circumstances. The employer cannot simply move an employee from one position to another without finding a new position for the transferring employee or a replacement worker for the employee requesting the transfer. When the claimant did not receive the transfer immediately, and knew she was going to have to go back to her position at the waiver home, she submitted her resignation notice effective immediately.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left her employment without good cause attributable to the employer.

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 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. 871 IAC 24.25. Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3),(4). Leaving because of dissatisfaction with the work environment is not good cause. 871 IAC 24.25(1). The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code section 96.6-2. "Good cause" for leaving employment must be that which is reasonable to the average person, not to the overly sensitive individual or the claimant in particular. Uniweld Products v. Industrial Relations Commission, 277 So.2d 827 (Florida App. 1973). The claimant initiated the transfer from her previous position to her job in the waiver home. She made various complaints during the hearing about transporting clients in her vehicle, although she was not required to do so and never received a warning about that situation, and about co-worker Vicki being "bossy," but agreed that Vicki's actions may have been attributable to trying to train and acclimate the claimant to the waiver home. The claimant stated she "hated" working at the waiver home and during the second week she was off work due to stress she made a request for an immediate administrative transfer. The employer was not unwilling to transfer her, but could not do so immediately. Understandably, the employer had to find a position for her and a replacement for her before it could transfer her and that process would take at least two to four weeks, which was not an unreasonable time frame under the circumstances. The claimant expected to be transferred immediately so she would not have to return to the waiver home after her two weeks off and that was simply not possible. When the claimant learned she would have to wait a short time for her transfer, she decided to voluntarily quit her job, effective immediately, so she did not have to go back to the waiver home. The claimant chose to move to the waiver home position and, although she "hated" the job, she has not demonstrated that her leaving was due to unlawful, intolerable, or detrimental working conditions as those terms are defined by Iowa law. Therefore, benefits are denied.

DECISION:

The August 17, 2012, reference 01, decision is affirmed. The claimant voluntarily left her employment without good cause attributable to the employer. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/kjw