

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LINDA CONKLIN
Claimant

APPEAL NO. 07A-UI-03672-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

BAXTER CARE LLC
Employer

OC: 02-25-07 R: 02
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the April 4, 2007, reference 02, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on April 25, 2007. The claimant participated in the hearing. Cindy Shah, Director of Nursing and Sue Sorbo, Administrator, 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 PRN LPN for Baxter Health Care Center from November 17, 2005 to December 3, 2006. She resigned because she felt two CNAs on her shift were harassing her because they were sarcastic, disrespectful, laughed at her, yelled at her, reported things that were not true, and put things such as wet M&Ms and a half-eaten sandwich in her purse. She sent letters about the situation to Director of Nursing Cindy Shah stating she would not work with certain CNAs but there were so many the employer tried to work with her on how to work with, refocus and motivate the CNAs she was scheduled to work with. The employer had warned the claimant about her attendance, charting deficiencies and resident and staff complaints that she did not respect them, and had scheduled a meeting with the claimant December 4, 2006. The claimant, anticipating she might be terminated, submitted her resignation prior to the meeting. The employer was waiting to see what happened during the meeting before making a decision on whether the claimant would be terminated or not.

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 resigned prior to the December 4, 2006, meeting because she thought she might be discharged, although the employer had not made any decisions on termination at that time. The claimant was upset with her treatment by the CNAs. The employer, however, was receiving just as many, if not more, complaints of a similar nature about the claimant. While some of the actions of the CNAs as described by the claimant were inappropriate they do not rise to the level of unlawful, intolerable or detrimental and it appears neither party was satisfied with the other. Consequently, the administrative law judge cannot conclude the claimant has demonstrated that her voluntarily leaving was for good cause attributable to the employer as defined by Iowa law. Therefore, benefits must be denied.

DECISION:

The April 4, 2007, reference 02, 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

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