

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DENETRA SEYMOUR
Claimant

APPEAL NO. 08A-UI-09953-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

THE EASTER SEAL SOCIETY OF IA INC
Employer

**OC: 09/28/08 R: 02
Claimant: Appellant (2)**

Section 96.5(1) – Quit

STATEMENT OF THE CASE:

The claimant, Denetra Seymour, filed an appeal from a decision dated October 22, 2008, reference 01. The decision disqualified her from receiving unemployment benefits. After due notice was issued a hearing was held by telephone conference call on November 12, 2008. The claimant participated on her own behalf. The employer, Easter Seal, participated by Director Elizabeth Allison and Human Resources Generalist Sara Hardy.

ISSUE:

The issue is whether the claimant quit work with good cause attributable to the employer.

FINDINGS OF FACT:

Denetra Seymour was employed by Easter Seal from July 26, 2007 until September 18, 2008 as a part-time independent living provider working the overnight shift for approximately 30 hours per week. In June 2008 the guardian of the client for whom Ms. Seymour was caring asked the employer to remove the claimant. The assertion was that the claimant had been “threatening” to the client. The employer declined and attempted to keep Ms. Seymour in the home and work out the problems.

The guardian would not meet with Ms. Seymour, even though she requested it, but did stay in the client’s home whenever the claimant would be working there. In September 2008 the guardian again requested the claimant be removed and this time the employer agreed. Ms. Seymour was offered a selection of about six other clients, but only one was on the overnight shift. Others were first and second shift and the claimant would not work those shifts due to child care problems. The one night shift client was only one night per week for about six hours. She declined because one shift per week was not sufficient.

REASONING AND CONCLUSIONS OF LAW:

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 24.26(1) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(1) A change in the contract of hire. An employer's willful breach of contract of hire shall not be a disqualifiable issue. This would include any change that would jeopardize the worker's safety, health or morals. The change of contract of hire must be substantial in nature and could involve changes in working hours, shifts, remuneration, location of employment, drastic modification in type of work, etc. Minor changes in a worker's routine on the job would not constitute a change of contract of hire.

The claimant quit because she was being removed from the client's home at the request of the guardian. Ms. Seymour was offended the guardian would not meet with her or offer her an apology but there is nothing to indicate that her contract of hire included the right to make such demands of a client's guardian. Nonetheless, she was being removed from that client's home and her hours were being reduced. The record does not contain any evidence of misconduct on the part of the claimant, merely a conflict of personality with the client and the client's guardian. The change in the contract of hire was therefore not caused by any misconduct on the part of the claimant.

The change in the contract of hire was a reduction in the number of hours per week or else a substantial change in the shift she would work. Under the provisions of the above Administrative Code section, this is a voluntary quit with good cause attributable to the employer and the claimant is qualified for benefits.

DECISION:

The representative's decision of October 22, 2008, reference 01, is reversed. Denetra Seymour is qualified for benefits, provided she is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/pjs