

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TERESA R HUSK
Claimant

APPEAL NO. 08A-UI-03682-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

GOOD SAMARITAN SOCIETY INC
Employer

OC: 03/16/08 R: 01
Claimant: Respondent (2)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

Good Samaritan Society, Inc. (employer) appealed a representative's April 9, 2008 decision (reference 01) that concluded Teresa R. Husk (claimant) was qualified to receive unemployment insurance benefits after a separation from employment. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on April 30, 2008. The claimant failed to respond to the hearing notice and provide a telephone number at which she could be reached for the hearing and did not participate in the hearing. Jenny Jacobson appeared on the employer's behalf and presented testimony from two other witnesses, Carol Mikkelsen and Billy Jo Gray. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the claimant voluntarily quit for a good cause attributable to the employer?

FINDINGS OF FACT:

The claimant started working for the employer on October 2, 2007. She worked part time (approximately 30 hours per week) as a certified nursing aide (CNA) and laundry and housekeeping assistant in the employer's skilled nursing facility. Her last day of work was March 14, 2008.

On March 14 the claimant was scheduled to work as a CNA from 2:00 p.m. to 10:00 p.m. She had not been getting along with the charge nurse, and when the charge nurse directed the claimant assist in caring for a resident the claimant felt she was being picked on. She announced that she was leaving, clocked out at 4:30 p.m. and left. About an hour later she called and left a message for Ms. Mikkelsen, the director of nursing, reporting that she had left her shift and inquiring whether she would be allowed to return for work thereafter.

The employer's policies of which the claimant was on notice provide that an employee who leaves before the end of their shift without obtaining permission is deemed to have quit. As a

result, on March 17 the employer informed the claimant that it considered to have quit and would not allow her to return to work.

The claimant established a claim for unemployment insurance benefits effective March 16, 2008. The claimant has received no unemployment insurance benefits since the separation from employment.

REASONING AND CONCLUSIONS OF LAW:

If the claimant voluntarily quit her employment, she is not eligible for unemployment insurance benefits unless it was for good cause attributable to the employer. Iowa Code § 96.5-1.

Rule 871 IAC 24.25 provides that, 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. A voluntary leaving of employment requires an intention to terminate the employment relationship and an action to carry out that intent. Bartelt v. Employment Appeal Board, 494 N.W.2d 684 (Iowa 1993); Wills v. Employment Appeal Board, 447 N.W.2d 137, 138 (Iowa 1989). Leaving rather than performing work as assigned is deemed to be a voluntary quit. 871 IAC 24.25(27). The claimant did express or exhibit the intent to cease working for the employer and did act to carry it out. The claimant would be disqualified for unemployment insurance benefits unless she voluntarily quit for good cause.

The claimant has the burden of proving that the voluntary quit was for a good cause that would not disqualify her. Iowa Code § 96.6-2. Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3), (4). Leaving because of a dissatisfaction with the work environment or a personality conflict with a supervisor is not good cause. 871 IAC 24.25(21), (23). Quitting because a reprimand has been given is not good cause. 871 IAC 24.25(28). The claimant has not provided sufficient evidence to conclude that a reasonable person would find the employer's work environment detrimental or intolerable. O'Brien v. Employment Appeal Board, 494 N.W.2d 660 (Iowa 1993); Uniweld Products v. Industrial Relations Commission, 277 So.2d 827 (FL App. 1973). The claimant has not satisfied her burden. Benefits are denied.

DECISION:

The representative's April 9, 2008 decision (reference 01) is reversed. The claimant voluntarily left her employment without good cause attributable to the employer. As of April 9, 2008,

benefits are withheld until such time as the claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/css