

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**GERALDINE A GEHRKE**

Claimant

**APPEAL 18R-UI-08771-CL-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CENTRAL IOWA HOSPITAL CORP**

Employer

**OC: 06/10/18**

**Claimant: Appellant (1)**

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Iowa Code § 96.5(1) – Voluntary Quitting

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the June 29, 2018, (reference 01) unemployment insurance decision that denied benefits based upon a separation from employment. The parties were properly notified about the hearing. A telephone hearing was held on September 25, 2018. Claimant participated. Employer did not register for the hearing and did not participate.

**ISSUE:**

Did claimant voluntarily quit the employment with good cause attributable to employer?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for employer in 2010. Claimant last worked as a full-time neonatal intensive care unit nurse. Claimant was separated from employment on June 8, 2018, when she resigned.

In November 2017, claimant's co-worker reported to the director of nursing that claimant was visiting with him too often during work hours. The director of nursing and a human resources representative met with claimant about the complaint. Claimant denied the allegations. The director of nursing warned claimant that she should refrain from visiting so often with her co-worker. Claimant was very offended by the complaint, but did refrain from excessive visitation with her co-worker thereafter. Later, claimant did speak with her co-worker about the complaint. Her co-worker explained he did not mean for claimant to get in trouble. He only wanted the director of nursing to speak with claimant about the issue. Claimant also heard from another supervisor that the co-worker was concerned that claimant was attempting to engage in an extramarital relationship with him. Claimant was offended by this as well, as she had no intentions of doing so.

Claimant and her husband discussed how unhappy claimant was with her work environment. They made a plan to move to Florida and claimant's husband obtained employment there.

Claimant gave a notice of resignation and stated her last day would be June 8, 2018. On her last day of work, claimant was on her personal phone with her mother and a supervisor walked

by and swatted her on the shoulder. The supervisor stated she could not be on the phone even if it was her last day. Claimant was in physical pain and began to cry. Claimant went home early on her last day of work.

### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes claimant's separation from the employment was without good cause attributable to the employer.

Iowa Code section 96.5(1) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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.

Iowa Admin. Code r. 871-24.25(2) 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:

(2) The claimant moved to a different locality.

Iowa Admin. Code r. 871-24.26(4) 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:

(4) The claimant left due to intolerable or detrimental working conditions.

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). "Good cause" for leaving employment must be that which is reasonable to the average person, not the overly sensitive individual or the claimant in particular. *Uniweld Products v. Indus. Relations Comm'n*, 277 So.2d 827 (Fla. Dist. Ct. App. 1973).

In this case, claimant resigned to move to another locality. Claimant asserts she would not have moved if the work environment was not intolerable. Claimant found the work environment intolerable because her co-worker complained that she talked to him too much. It was within the co-worker's rights to make the report, if he felt this way. The co-worker did not make the report maliciously, as he later related to claimant. Employer acted reasonably by warning claimant not to visit so much with her co-worker. While upsetting to claimant, this situation

would not have been intolerable to a reasonable person in claimant's position. Therefore, claimant failed to establish an intolerable work environment led to her resignation.

Claimant's supervisor should not have swatted her on the shoulder on her last day of work. However, claimant had already given her resignation notice by that point, so it was not her reason for leaving employment.

Claimant failed to establish she resigned for a good cause reason attributable to employer.

**DECISION:**

The June 29, 2018, (reference 01) unemployment insurance decision is affirmed. Claimant voluntarily left the 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.

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Decision Dated and Mailed

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