

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MELINDA S REYNOLDS
Claimant

APPEAL NO. 08A-UI-04927-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

COTTAGE GROVE PLACE
Employer

**OC: 04/27/08 R: 03
Claimant: Appellant (1)**

Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Melinda Reynolds filed an appeal from a representative's decision dated May 16, 2008, reference 01, which denied benefits based on her separation from Cottage Grove Place. After due notice was issued, a hearing was held by telephone on June 9, 2008. Ms. Reynolds participated personally. The employer participated by Cindy Hawkins, Human Resources Director, and Lynn Pierce, Staff Services Coordinator.

ISSUE:

At issue in this matter is whether Ms. Reynolds was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Reynolds was employed by Cottage Grove Place from May 15 until December 21, 2007. She worked as a certified nursing assistant and an oral medication technician. She averaged 30 or more hours of work per week. She had to average at least 32 hours of work each week in order to maintain insurance benefits and never lost such benefits.

Ms. Reynolds quit on December 21 to avoid being discharged in the future as a result of her attendance. She received a verbal warning concerning tardiness on October 6 and a verbal warning concerning absences on December 15. She was experiencing child care issues that prevented her from reporting to work or reporting to work timely on some occasions. Continued work would have been available if Ms. Reynolds had not quit.

REASONING AND CONCLUSIONS OF LAW:

An individual who voluntarily quits employment is disqualified from receiving job insurance benefits unless the quit was for good cause attributable to the employer. Iowa Code section 96.5(1). Ms. Reynolds quit her job with Cottage Grove Place because she feared she would be discharged as a result of her attendance. Although she had been warned about her

attendance, she was not in any immediate danger of losing her job as a result of attendance. She would have received at least a written warning before she was subject to discharge. It is reasonable for an employer to put an individual on notice when her attendance is jeopardizing her continued employment. The fact that an individual has unsatisfactory attendance that may ultimately result in discharge does not constitute good cause attributable to the employer for quitting.

Ms. Reynolds also quit her job because of child care issues, which negatively affected her attendance. The lack of adequate child care does not constitute good cause attributable to the employer for quitting. See 871 IAC 24.25(17). The record as a whole failed to establish good cause attributable to the employer for Ms. Reynolds' decision to quit. As such, her separation was a disqualifying event.

Ms. Reynolds has asked that wage credits earned with Cottage Grove Place be deleted from her claim, as they were earned in part-time employment. The administrative law judge concludes that she was not a part-time employee. She worked at least 30 hours each week for Cottage Grove Place and did not have employment elsewhere at the same time. The fact that an individual works less than 40 hours in a given week does not mean the employment is part-time. Inasmuch as Ms. Reynolds worked enough hours to maintain full-time health benefits, the administrative law judge concludes that her employment was not part-time. Therefore, the request that the wage credits from Cottage Grove Place be deleted so that she can receive benefits based on other wage credits is denied.

DECISION:

The representative's decision dated May 16, 2008, reference 01, is hereby affirmed. Ms. Reynolds quit her employment with Cottage Grove Place on December 21, 2007 for no 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 job insurance benefit amount, provided she satisfies all other conditions of eligibility.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/kjw