

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JEZABEL PENA
Claimant

APPEAL NO. 15A-UI-06342-TN-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

A-1 IOWA DENTAL PLLC
Employer

OC: 05/03/15
Claimant: Respondent (1)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

A-1 Iowa Dental filed a timely appeal from a representative's decision dated May 21, 2015, reference 01, which held claimant eligible to receive unemployment insurance benefits finding the claimant quit work on April 30, 2015 because of detrimental working conditions. After due notice was given a telephone hearing was held on July 13, 2015. Claimant participated. The employer participated by Vishial Patel, Office Manager, Piyinsha Patel, Office Coordinator and Sonal Patel, Company Partner.

ISSUE:

The issue is whether the claimant left employment with good cause attributable to the employer.

FINDINGS OF FACT:

Having considered all the evidence in the record, the administrative law judge finds: Jezabel Pena was employed by A-1 Iowa Dental LLC from October 6, 2014 until April 30, 2015, when she quit employment. Ms. Pena was employed as a full-time front desk receptionist and was paid by the hour. Her immediate supervisors were Vishial Patel and Piyinsha Patel, Office Coordinator.

Ms. Pena left her employment with the captioned dental office by walking off the job on April 29, 2015 and not returning to work the following day or thereafter.

Ms. Pena left her employment because she believed that she had been unreasonably singled out for criticism by Piyinsha Patel, because she had been issued a written warning for a doctor's appointment that had been verified as necessary and because Piyinsha Patel was yelling at her while reprimanding her in the presence of other staff members and patients.

The final incident took place when the office coordinator questioned and criticized Ms. Pena after Ms. Pena had begun to cancel some appointments on April 29, 2015, because of equipment issues. Claimant had been instructed to begin contacting patients by other staff and had begun to implement the request by personally informing the office coordinator. Ms. Pena

believed the office coordinator was personally harassing her by unduly “hovering over her” and questioning the claimant’s work.

Ms. Pena had recently been placed in a different work area and issued a memo about unsatisfactory work. The employer’s intention at the time was to remove some job duties from Ms. Pena so that she could observe and learn from other employees. It was the employer’s position that Ms. Pena was being more closely supervised than other employees because she was making more errors and the employer was receiving complaints. Prior to leaving her employment, Ms. Pena had complained to management about the office coordinator’s conduct.

REASONING AND CONCLUSIONS OF LAW:

The question before the administrative law judge in this case is whether the claimant left employment with good cause attributable to the employer. She did.

Iowa Code § 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 leaving cases the claimant has the burden of proof to establish that she left employment with good cause attributable to the employer. See Iowa Code Section 96.6(2).

In general a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship or be employed with the employer from whom the employee has separated. 871 IAC 24.25. Leaving because of unlawful, intolerable or detrimental working conditions are considered to be with good cause. 871 IAC 24.26 (3), (4). Leaving because of general satisfaction 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.

Quits due to intolerable or detrimental) working conditions are deemed for good cause attributable to the employer. See 871 IAC 24.26(4). The test is whether a reasonable person would have quit under the circumstances. See Aalbers v. Iowa Department of Job Services, 431 N.W.2d 330 (Iowa 1988) and O’Brien v. Employment Appeal Board, 494 N.W.2d 660 (Iowa 1993).

In the case at hand it appears that the claimant was under the direct supervision of both the office’s office manager as well as the office coordinator. Because of some performance issues both the office manager and the office coordinator began to observe the claimant in the performance of her duties and one or more memos had been issued to Ms. Pena about her work performance and errors that she was making.

As time progressed it appears that Piysha Patel the Office Coordinator went beyond normal supervision and often “hovered over” the claimant while openly criticizing the claimant’s work in the presence of other employees and as well as patients. Ms. Pena followed a reasonable course of action by complaining about the office coordinator’s conduct.

Ms. Pena became increasingly dissatisfied after she was issued a written warning for attending a doctor’s appointment. The final incident that caused the claimant to leave employment took

place when the office coordinator openly criticized and yelled at the claimant in the presence of other staff members and patients, when Ms. Pena followed the instructions of other staff and began canceling some appointments due to equipment failure that day.

Upon application of the facts to the law, the administrative law judge concludes that the claimant's leaving was for good cause attributable to the employer as defined by Iowa law. Accordingly, benefits are allowed, providing the claimant is otherwise eligible.

DECISION:

The representative's decision dated May 21, 2015, reference 01, is affirmed. The claimant left employment with good cause attributable to the employer. Unemployment insurance benefits are allowed, providing the client is otherwise eligible.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

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