

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SUZI J SOBASKI

Claimant

APPEAL NO. 08A-UI-09479-LT

**ADMINISTRATIVE LAW JUDGE
DECISION**

COMMUNITY 1ST CREDIT UNION

Employer

**OC: 08/03/08 R: 03
Claimant: Appellant (2)**

Iowa Code § 96.5(1) – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the October 8, 2008, reference 01, decision that denied benefits. After due notice was issued, a telephone conference hearing was held on October 30, 2008. Claimant participated and was represented by Vicki Siegel, Attorney at Law. Employer participated through Terry Malloy, Valarie Sample, and Lynn Mohler.

ISSUE:

The issue is whether claimant quit the employment without good cause attributable to the employer.

FINDINGS OF FACT:

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: Claimant was hired on October 12, 2000 and was most recently working full-time as a trainer until July 29, 2008, when she quit. On July 29 supervisor Mohler denied her request to attend a dental appointment for placement of a crown on August 1 that she arranged with employer on July 8. On July 29 employer had arranged a web seminar scheduled for August 1 and notified claimant that her dental appointment would not be honored. Claimant had performed all work duties assigned to her while Mohler was on vacation and attempted to reschedule the appointment with the dentist but was unable to do so until October, and the dentist wanted her to have the crown placed before then because of her difficulty chewing solid food. In the same July 29 e-mail, Mohler also advised claimant her vacation for August 6 through 17 was cancelled and they might work with her to take a day or two off. Claimant had initially been approved for the vacation in January 2008 when the request was submitted to then supervisor Terri Ortges. When she accepted the trainer job on May 23 she advised vice president Laura Meeker she would not accept the job if her vacation request was not honored. Meeker agreed that it would be.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left the employment with good cause attributable to the employer.

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.

871 IAC 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.

Generally notice of an intent to quit is required by *Cobb v. Employment Appeal Board*, 506 N.W.2d 445, 447-78 (Iowa 1993), *Suluki v. Employment Appeal Board*, 503 N.W.2d 402, 405 (Iowa 1993), and *Swanson v. Employment Appeal Board*, 554 N.W.2d 294, 296 (Iowa Ct. App. 1996). These cases require an employee to give an employer notice of intent to quit, thus giving the employer an opportunity to cure working conditions. Accordingly, in 1995, the Iowa Administrative Code was amended to include an intent-to-quit requirement. The requirement was only added, however, to rule 871-24.26(6)(b), the provision addressing work-related health problems. No intent-to-quit requirement was added to rule 871-24.26(4), the intolerable working conditions provision. Our supreme court recently concluded that, because the intent-to-quit requirement was added to 871-24.26(6)(b) but not 871-24.26(4), notice of intent to quit is not required for intolerable working conditions. *Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1 (Iowa 2005).

The employer's unreasonable refusal to honor her approved vacation period and her prearranged dental appointment created an intolerable work environment for claimant, which gave rise to a good-cause reason for leaving the employment. Benefits are allowed.

DECISION:

The October 8, 2008, reference 01, decision is reversed. The claimant voluntarily left her employment with good cause attributable to the employer. Benefits are allowed, provided the claimant is otherwise eligible.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/kjw