

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**TRACY CAVIN**  
Claimant

**APPEAL NO: 13A-UI-03728-ET**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**SWAN HOME HEALTH LLC**  
Employer

**OC: 02-24-13**  
**Claimant: Appellant (2)**

Section 96.5-1 – Voluntary Leaving

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the March 21, 2013, reference 01, decision that denied benefits. After due notice was issued, a telephone hearing was held before Administrative Law Judge Julie Elder on May 2, 2013. The claimant participated in the hearing. The employer did not respond to the hearing notice and did not participate in the hearing or request a postponement of the hearing as required by the hearing notice.

**ISSUE:**

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

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time personal service attendant for Swan Home Health from January 3, 2011 to July 28, 2012. She voluntarily quit her job due to scheduling promises that were not kept by the employer and other issues.

The claimant was promised she would continue to work Sunday through Thursday nights from 11:00 p.m. to 7:15 a.m. if she worked the holidays. The claimant worked the holidays but shortly after the New Year her hours were switched to nine days in a row at her previous hours and then one day off followed by one day on and three days off. When the claimant questioned the employer about the change in schedule she was told it was a fairness issue. The claimant was the longest tenured employee, with the exception of the maintenance man, and also learned the employer was hiring employees for the claimant's exact same position at a higher wage. Some may have had more experience or education but many did not. Additionally, according to the handbook, she was to receive a performance evaluation and likely raise in pay at three and six months respectively, but was never reviewed and never received a raise. The facility went through five administrators and four or five DONs during the one and one-half years the claimant was employed by the employer. After considering the above-stated factors the claimant decided to quit her job with the employer.

**REASONING AND CONCLUSIONS OF LAW:**

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

Iowa Code section 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 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. 871 IAC 24.25. Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3),(4). Leaving because of dissatisfaction 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.

The claimant was promised she could retain her Sunday through Thursday from 11:00 p.m. to 7:15 a.m. schedule if she worked the holidays and she did so but her schedule was then changed anyway, without regard to the pledges the employer made to the claimant. Furthermore, the employer failed to follow its own policy in reviewing the claimant's performance after her first three and six months of employment, at which time she could have expected to receive pay raises. Additionally, new hires for the claimant's position were being paid a higher rate of pay than was the claimant, who was the longest serving employee in the facility, except for the maintenance man. Under these circumstances, the administrative law judge concludes the claimant has demonstrated that her leaving was due to intolerable or detrimental working conditions which constitute good cause attributable to the employer as that term is defined by Iowa law. Therefore, benefits are allowed.

**DECISION:**

The March 21, 2013, 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.

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Julie Elder  
Administrative Law Judge

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Decision Dated and Mailed

je/pjs