

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TAMI L STAPLES
Claimant

APPEAL NO. 11A-UI-05951-DW

**ADMINISTRATIVE LAW JUDGE
DECISION**

CENTRAL IOWA HOSPITAL CORP
Employer

OC: 04/03/11
Claimant: Appellant (2)

Iowa Code § 96.5(1) – Voluntary Quit

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's April 27, 2011 determination (reference 01) that disqualified her from receiving benefits and held the employer's account exempt from charge because she voluntarily quit her employment for reasons that do not qualify her to receive benefits. The claimant participated in the hearing with her attorney, Jeff Lamberti. Kami Petitgoue, attorney at law, appeared on the employer's behalf. Barb Owca, the human resources representative, testified and Connie Duling, the claimant's supervisor, was present at the hearing on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge finds she is qualified to receive benefits.

ISSUE:

Did the claimant voluntarily quit her employment for reasons that qualify her to receive benefits, or did the employer discharge her for work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer in August 1990. She has been a clinic manager for 6.5 years. Duling supervised her.

During the summer of 2010, the employer started considering what they planned to do about employees who were not certified CMAs. The employer concluded that in accordance with new federal regulations, CMAs would have to be certified. One of the CMAs that the claimant supervised, M., was not certified. Based on discussions with Duling, there was some concern about M's continued employment as a CMA. The employer did not make a business decision about what to do until later 2010 or early 2011.

When the claimant returned from a vacation in late July 2010, she received information that M. had read an occult stool card incorrectly. Since the card had been shredded and there was no proof if M. had read the card correctly or incorrectly, Duling asked the claimant to verbally coach M. on reading the cards.

While Duling was on a medical leave, the claimant's interim supervisor, Kim Barr, instructed the claimant to give M. the employer's business plan that had been drafted so she knew what her options could be. The claimant gave M. the employer's business plan draft in November.

On November 27, the claimant attended a meeting that J.S. scheduled. The claimant and providers attended the meeting that the claimant understood would be about certification of CMAs. Instead of talking about the certification issue, J.S. indicated that if the providers did not have problems with M.'s performance, there would not be a certification problem. J.S. then told the claimant to write up a Level II corrective action to give to M. J.S. specifically told the claimant what to put in the corrective action. Even though the claimant indicated there was no documentation to support the issues J.S. wanted to address, J.S. told her no documentation was necessary because the word of a provider was good enough.

The claimant gave M. the Level II corrective action as J.S. instructed her to do. M. appealed or grieved this corrective action. During a meeting with Duling on January 5, Duling asked the claimant if she would step down as the clinic manager. The claimant declined this request, because she believed she was doing good job. The claimant did not have any written warnings in her personnel file.

The claimant was asked to attend a meeting on January 12 with J.S. The claimant learned the meeting was called because the employer concluded M. should not have been given the business plan before it had been finalized, J.S. believed the claimant had not told her that M. had not been previously talked to about issues addressed in the Level II corrective action, and the employer would ask the claimant to step down or she would receive a Level III corrective action, which is the last step before being terminated. The meeting was rescheduled. When the claimant met with Duling and Owca, Duling told Owca she would not give the claimant a Level III corrective action. Duling advised Owca that she had offered the claimant the opportunity to step down and she declined.

On January 27, J.S. met with the claimant and advised her to step down. J.S. inferred the claimant was too nice to work as a manager because it was hard for the claimant to give employees corrective actions. On February 3, the claimant received directions to give M. a Level III corrective action for a particular issue. The claimant went to Owca and explained that she did not feel comfortable issuing a Level III for this problem because she would only talk to another employee about the same issue. The claimant also told Owca that she believed the employer was targeting M. to end her employment.

In J.S.'s February 4 documentation she gave the claimant, J.S. noted that she had recommended the claimant step down so she could avoid progressive disciplinary action.

After being told four times she should step down even though there had not been any documented issues before December 2010, being threatened with a Level III corrective action that was later withdrawn because there was no documentation to support this action, and being told by J.S. twice to step down and then advised that she would be subject to progressive disciplinary action because she did not step down as a clinical manager, the claimant submitted her resignation on February 4, 2011. The effective date of her resignation was April 1, which was the last day she worked for the employer.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quits employment without good cause attributable to the employer. Iowa Code § 96.5(1). When a

claimant quits, she has the burden to establish she leaves employment for reasons that qualify her to receive benefits.

The law presumes a claimant quits for good cause when she leaves because of a substantial change in her employment or intolerable working conditions. 871 IAC 24.26(1), (4). The pressure the employer put on the claimant to resign or be threatened with disciplinary action because she followed management's directive on November 27 to issue M. a corrective action just as J.S. directed her to do amounts to intolerable working conditions. This is especially true when the employer asked the claimant to resign four times in a month. The employer's proposed jobs paid significantly less than the claimant earned as a clinical manager. The proposed job changes amount to a substantial change in the claimant's employment.

Given J.S.'s statement that she did not care if there was any documentation because the word of a provider was good enough effectively cut off the claimant from explaining to her that M. had not received previous warnings about the issues J.S. wanted addressed in the corrective action. While J.S. may remember the November 27 meeting differently, she chose not to participate at the hearing. As result, the claimant's testimony as to what occurred at that meeting is credible and undisputed. J.S.'s concerns about the claimant may have been based on some legitimate issues. But, asking the claimant to step down four times and pointing out problems with her management skills only after M. appealed the Level II corrective action that J.S. directed the claimant to write appears suspect. The claimant had been a clinical manager for over six years and did not have any previous warnings. It seems unreasonable for an employer to request a six-year clinical manager to resign without first attempting to help her correct issues. The employer's treatment of the claimant after she followed J.S.'s directions appears unreasonable.

Based on the evidence presented during the hearing, the claimant established good cause for resigning. As of April 3, 2011, the claimant is qualified to receive benefits.

DECISION:

The representative's April 27, 2011 determination (reference 01) is reversed. The claimant voluntarily quit her employment with good cause attributable to the employer. As of April 3, 2011, the claimant is qualified to receive benefits, provided she meets all other eligibility requirements. The employer's account is subject to charge.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/kjw