

**IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI**

**RHONDA K GUNSOLLY
3700 – 28TH ST LOT 263
SIOUX CITY IA 51105**

**MID-STEP SERVICES INC
4303 STONE AVE
SIOUX CITY IA 51106**

**Appeal Number: 04A-UI-07999-DT
OC: 07/04/04 R: 01
Claimant: Appellant (1)**

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

Rhonda K. Gunsolly (claimant) appealed a representative's July 26, 2004 decision (reference 01) that concluded she was not qualified to receive unemployment insurance benefits after a separation from employment from Mid-Step Services, Inc. (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on August 16, 2004. The claimant participated in the hearing. Jan Hackett appeared on the employer's behalf and presented testimony from one other witness, Karen Scroggins. One other witness, Annalisa Anderson, was available on behalf of the employer, but did not testify. During the hearing, Employer's Exhibits One and Two and Claimant's Exhibits A, B, and C were entered into evidence. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the claimant voluntarily quit for a good cause attributable to the employer?

FINDINGS OF FACT:

The claimant started working for the employer on August 24, 2001. She worked full time as a residential living assistant in one of the employer's homes for mentally and physically challenged persons. Her last day of work was July 7, 2004.

The claimant had previously been placed on a final attendance agreement under which she was required to provide a doctor's excuse for any further absence. The claimant was absent on June 30 and July 1, 2004. She provided a doctor's excuse for June 30, but not July 1. When she sought to return to work at 5:30 a.m. on July 2, she was asked about a doctor's excuse for July 1, and was reminded that if she did not have a doctor's excuse, she was subject to termination. She was sent home shortly before 6:30 a.m.

Before leaving the employer's facility, the claimant called the then off-duty social worker to whom she had spoken when she called in sick on July 1. She was crying and explained that there was a problem regarding her call-in that was jeopardizing her job, and wanted the social worker to take some action to indicate that she had approved the claimant's absence on July 1. The social worker apologized for having given any impression that the claimant might not also need to provide a doctor's excuse. The social worker was not a manager who was aware of the claimant's attendance agreement, and she did agree to contact management to explain her involvement in the matter.

After leaving the facility, the claimant appeared at the home of an off-duty nurse and rang the doorbell. The nurse was awakened, as were children in the home. When she answered the door, the claimant was crying and upset, and asked the nurse for the address of the nurse's mother, who is Ms. Hacket, the employer's human resources coordinator. She wanted to go to Ms. Hacket's home and discuss the matter. The nurse declined to give her mother's home address, and indicated the claimant could contact Ms. Hacket at work shortly after 7:00 a.m.

The claimant ultimately did obtain and provide a doctor's excuse for July 1; however, the excuse also covered July 2. The facility administrator, Ms. Scroggin, spoke to the claimant later in the day on July 2 and indicated the excuse had been received, and indicated that there were some concerns that would need to be addressed when the claimant returned to work.

When the claimant reported for work on July 7, she was called into a meeting with Ms. Scroggin, Ms. Anderson, and another supervisor. The employer was concerned both about the claimant not understanding that she needed to provide a doctor's excuse for each day upon her return to work and about the claimant's poor judgment in making contact with the off-duty employees at their homes. The employer had prepared a written warning to address these concerns. During the meeting, Ms. Scroggin began reading the warning; however, the claimant continued to interrupt and sought to argue with the points covered in the warning, particularly the employer's characterization of the claimant's contact of the off-duty employees as "harassment." Finally, after another interruption from the claimant, Ms. Scroggin retorted, "Could I finish?" to which the claimant replied, "No, I'm not going to let you treat me this way, I quit." She proceeded to leave, but did sign the warning adding the notation that she did not agree with the statements, and also signing a statement of quitting due to being written up for what happened July 2 and because she felt she had been mistreated.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant voluntarily quit, and if so, whether it was for 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.

871 IAC 24.25 provides that, 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. The claimant did express her intent not to return to work with the employer. A voluntary leaving of employment requires an intention to terminate the employment relationship. Bartelt v. Employment Appeal Board, 494 N.W.2d 684 (Iowa 1993). The claimant did exhibit the intent to quit and did act to carry it out. The claimant would be disqualified for unemployment insurance benefits unless she voluntarily quit for good cause.

The claimant has the burden of proving that the voluntary quit was for a good cause that would not disqualify her. Iowa Code Section 96.6-2. Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3), (4). Leaving because of a dissatisfaction with the work environment or a personality conflict with a supervisor is not good cause. 871 IAC 24.25(21), (23). Quitting because a reprimand has been given is not good cause. 871 IAC 24.25(28). The claimant has not provided sufficient evidence to conclude that a reasonable person would find the employer's work environment detrimental or intolerable. O'Brien v. Employment Appeal Board, 494 N.W.2d 660 (Iowa 1993); Uniweld Products v. Industrial Relations Commission, 277 So.2d 827 (FL App. 1973). The claimant has not satisfied her burden. Benefits are denied.

DECISION:

The representative's July 26, 2004 decision (reference 01) is affirmed. The claimant voluntarily left her employment without good cause attributable to the employer. As of July 7, 2004, benefits are withheld until such time as the claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

ld/smc