

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CHRISTIE L FRANKLIN
Claimant

APPEAL NO: 08A-UI-05095-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CENTER VILLAGE INC
Employer

OC: 07/29/07 R: 03
Claimant: Appellant (5)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

Christie L. Franklin (claimant) appealed a representative's May 19, 2008 decision (reference 02) that concluded she was not qualified to receive unemployment insurance benefits after a separation from employment from Center Village, Inc. (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on June 11, 2008. The claimant participated in the hearing. Cathy Newman appeared on the employer's behalf and presented testimony from one other witness, Angela Smith. 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 September 11, 2007. She worked full time as a certified medications aide (CMA) in the employer's residential care facility. Her last day of work was April 24, 2008.

On April 24 the claimant was scheduled to work her usual shift from 2:00 p.m. to 10:00 p.m. At approximately 5:30 p.m. a resident had become argumentative, and Ms. Smith, a co-administrator, returned to the facility to talk to the resident and calm him down. When Ms. Smith came into the facility, she spoke briefly to another staff person, but did not speak to the remaining three staff members including the claimant before leaving about 15 minutes later. At approximately 6:45 p.m. the resident again became disruptive, but the claimant was able to calm the resident on her own in about five minutes without Ms. Smith having to return to the facility. However, the claimant was upset that Ms. Smith had not stopped to share any advice she might have as to how to handle the resident. She became so upset that she began crying and got a headache. She told the other staff persons on duty at approximately 7:00 p.m. that she was leaving, and did so. She did not obtain any permission from anyone in authority to leave.

Shortly after leaving the claimant did call Ms. Newman, the facility's director, and told her she had left. Ms. Newman repeatedly asked the claimant if she was going to return to complete the remainder of her shift, and the claimant responded she was not. Ms. Newman indicated they would discuss the matter further the next day.

Contributing to the claimant's distress on April 24 was the claimant's discontent with the employer's medications documentation forms. The claimant had received some prior reprimands regarding failing to properly sign off on the forms. The employer was in the process of changing over to a new medication disbursement system, but the claimant was concerned that would not resolve the problems she perceived with the documentation system. By the time the claimant met with the employer on April 25, she had determined to inform the employer that she was not going to be returning to her employment. Before the claimant had an opportunity to make her announcement, the employer advised her that because she had left the shift without permission the prior night, she was deemed to have quit and her employment was therefore ended.

REASONING AND CONCLUSIONS OF LAW:

If the claimant voluntarily quit her employment, she is not eligible for unemployment insurance benefits unless it was for good cause attributable to the employer. Iowa Code § 96.5-1.

Rule 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. A voluntary leaving of employment requires an intention to terminate the employment relationship and an action to carry out that intent. Bartelt v. Employment Appeal Board, 494 N.W.2d 684 (Iowa 1993); Wills v. Employment Appeal Board, 447 N.W.2d 137, 138 (Iowa 1989). The claimant did express or exhibit the intent to cease working for the employer and did act to carry it out. The claimant would be disqualified for unemployment insurance benefits unless she voluntarily quit for good cause. There are some actions by an employee which are construed as being voluntary quit of the employment, such as where an employee leaves when there is work rather than performing assigned work. 871 IAC 24.25.

While the claimant may not have verbally informed the employer of her intent prior to being told the employer already considered the claimant's employment as ended, it is clear she had the intent to quit; the employer was reasonable in inferring that she had quit when she abandoned her shift.¹ The claimant has the burden of proving that the voluntary quit was for a good cause that would not disqualify her. Iowa Code § 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). While the claimant's work situation was perhaps not ideal, she has not provided sufficient evidence to conclude that a reasonable person would find the

¹ The claimant's leaving work without permission would also be grounds for the employer to have discharged the claimant for work-connected misconduct as a material breach of the duties and obligations owed by the employee to the employer. Iowa Code § 96.5-2-a; 871 IAC 24.32(1)a; Huntoon v. Iowa Department of Job Service, 275 N.W.2d 445 (Iowa 1979); Henry v. Iowa Department of Job Service, 391 N.W.2d 731, 735 (Iowa App. 1986).

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 May 19, 2008 decision (reference 02) is affirmed as modified with no effect on the parties. The claimant voluntarily left her employment without good cause attributable to the employer. As of April 24, 2008, 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.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/pjs