

**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**

**PATTY STOVER  
200 E LEACH AVE  
DES MOINES IA 50315**

**MERCY HOSPITAL  
ATTN HUMAN RESOURCES  
1055 – 6<sup>th</sup> AVE STE 105  
DES MOINES IA 50314**

**Appeal Number: 05A-UI-11689-BT  
OC: 09/25/05 R: 02  
Claimant: Appellant (2)**

**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, 4<sup>th</sup> 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.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

Patty Stover (claimant) appealed an unemployment insurance decision dated November 8, 2005, reference 02, which held that she was not eligible for unemployment insurance benefits because she voluntarily quit her employment with Mercy Hospital (employer) without good cause attributable to the employer. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on December 5, 2005. The claimant participated in the hearing with former employee Melody Lundee. The employer participated through Ron Robertson, Employee Relations Coordinator.

#### FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was employed as a full-time cook from September 29, 1997 through August 17, 2004. She voluntarily quit by giving her resignation on August 11, 2005 but was willing to complete her two-week's notice. The employer discharged her on August 17, 2005 but the claimant was paid for the rest of her notice period. The claimant quit her employment because of intolerable and detrimental working conditions. When the previous lead cook was removed from his position, the duties fell to the claimant and she handled them with ease. A new lead cook, Darice Otto, was hired in November 2003. Ms. Otto did not hide the fact she did not like or respect the claimant. There was no communication between the lead cook and the claimant, even though the claimant repeatedly asked for information. Ms. Otto would not communicate with the claimant about the daily preparation of meals nor would she tell the claimant when she was taking time off work. She would stand over the claimant and she always found problems with the claimant's work. The claimant went to her direct supervisor several times about the problems but nothing was done and the problems seemed to get progressively worse after that. Ms. Otto began to write the claimant up for minor infractions and Ms. Otto knew that it was only a matter of time before she would be fired, so she quit instead.

#### REASONING AND CONCLUSIONS OF LAW:

The issue is whether the reasons for the claimant's separation from employment qualify her to receive unemployment insurance benefits. The claimant is not qualified to receive unemployment insurance benefits if she voluntarily quit without 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. An employee quits her job only if she intends to quit and carries out that intent by some overt act. Peck v. Employment Appeal Bd., 492 N.W.2d 438, 440 (Iowa Ct. App. 1992). The claimant demonstrated her intent to quit and acted to carry it out by giving her written resignation.

The claimant quit her employment because of detrimental and intolerable working conditions. The law presumes it is a quit with good cause attributable to the employer when an employee leaves due to intolerable and detrimental working conditions. 871 IAC 24.26(4). The claimant testified about the poor treatment she received from the head cook and how it was getting progressively worse. Melody, Lundee, a former employee, also provided compelling first-hand testimony about her experiences sharing an office with the head cook. Ms. Lundee testified that the head cook repeatedly talked about how she did not like the claimant's work and how she could not stand the claimant. Ms. Otto admitted to her that she was not going to speak to the claimant. Ms. Otto also told Ms. Lundee that she was trying to get rid of the claimant and that she had talked to their supervisor about it and the supervisor told her she would need lots of documentation. Apparently that is when the claimant began receiving disciplinary warnings. The employer could not dispute Ms. Lundee's testimony as he had not talked to either the head cook or their supervisor about the complaints.

It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify her. Iowa Code § 96.6-2. The claimant has satisfied that burden. Benefits are allowed.

DECISION:

The unemployment insurance decision dated November 8, 2005, reference 02, is reversed. The claimant voluntarily quit her employment with good cause attributable to the employer and is qualified to receive unemployment insurance benefits provided she is otherwise eligible.

sdb/tjc