

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

GENET ARDAMIS

Claimant

APPEAL NO. 12A-UI-00651-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

MID-STEP SERVICES INC

Employer

OC: 12/18/11

Claimant: Appellant (2)

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Genet Ardamis (claimant) appealed a representative's January 13, 2012 decision (reference 01) that concluded she was not eligible to receive unemployment insurance benefits because she voluntarily quit work with Mid-Step Services (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for February 14, 2012. The claimant was represented by Jessica Noll, Attorney at Law, and participated personally. The employer participated by Jan Hackett, Human Resources Director.

ISSUE:

The issue is whether the claimant was separated from employment for any disqualifying reason.

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 hired on April 13, 2009, as a full-time care giver. The claimant complained to her supervisor six times about her co-worker and his failure to care for residents. The co-worker was on the computer for most of the shift and did not help the claimant with duties that required two people to perform. On December 18, 2011, the claimant told her supervisor that she was quitting but did not give a reason. Continued work was available had the claimant not resigned.

REASONING AND CONCLUSIONS OF LAW:

For the following reasons the administrative law judge concludes the claimant voluntarily quit work with good cause attributable to the employer.

Iowa Code § 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 24.26(4) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

- (4) The claimant left due to intolerable or detrimental working conditions.

The law presumes a claimant has left employment with good cause when she quits because of intolerable or detrimental working conditions. 871 IAC 24.26(4). It would be reasonable for the employee to inform the employer about the conditions the employee believes are intolerable or detrimental and to have the employee notify the employer that she intends to quit employment unless the conditions are corrected. This would allow the employer a chance to correct those conditions before a quit would occur. However, the Iowa Supreme Court has stated that a notice of intent to quit is not required when the employee quits due to intolerable or detrimental working conditions. Hy-vee, Inc. v. Employment Appeal Board and Diyonda L. Avant, (No. 86/04-0762) (Iowa Sup. Ct. November 18, 2005). The claimant notified the employer of the problem with her co-worker. The claimant subsequently quit due to those conditions. The claimant is eligible to receive unemployment insurance benefits.

If a party has the power to produce more explicit and direct evidence than it chooses to do, it may be fairly inferred that other evidence would lay open deficiencies in that party's case. Crosser v. Iowa Department of Public Safety, 240 N.W.2d 682 (Iowa 1976). The employer did not provide first-hand testimony at the hearing and, therefore, did not provide sufficient eye witness evidence to rebut the claimant's statement that she quit with good cause attributable to the employer. Benefits are allowed.

DECISION:

The representative's January 13, 2012 decision (reference 01) is reversed. The claimant voluntarily quit with good cause attributable to the employer. The claimant is eligible to receive unemployment insurance benefits.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/pjs