

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**KIMBERLY A KURTTI**  
Claimant

**APPEAL NO. 15A-UI-02120-NT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ADVANCED WELLNESS SPORTS & SPINE**  
Employer

**OC: 01/18/15**  
**Claimant: Appellant (1)**

Section 96.5(1) – Voluntary Quit

**STATEMENT OF THE CASE:**

Kimberly Kurtti filed a timely appeal from a representative's decision dated February 6, 2015 (reference 01) which denied unemployment insurance benefits, finding that the claimant voluntarily quit work without good cause. After due notice was provided, a telephone hearing was held on March 18, 2015. Claimant participated. The employer participated by Ms. Holly Conners, Office Manager, and Dr. Brett Lockman, CEO/President.

**ISSUE:**

At issue is whether the claimant left the employment with good cause that was attributable to the employer.

**FINDINGS OF FACT:**

Kimberly Kurtti was employed by Advanced Wellness Sports & Spine from October 7, 2013 until January 23, 2015 when she voluntarily left employment. Ms. Kurtti was employed as a full-time medical assistant/front desk receptionist and was paid by the hour. Her immediate supervisor was Holly Conners, the office manager.

Ms. Kurtti left her employment with Advanced Wellness Sports & Spine, on January 14, 2015, due to dissatisfaction with a reprimand she received that day and the requirement that she correct deficiencies in nursing notes that Ms. Kurtti should have previously completed for office patients. The claimant was requested to remove extraneous comments that she had made in the notes and put in pertinent information that she had observed that had previously not been entered, and to add information to notes as it had been dictated by other medical staff members when Ms. Kurtti was performing clerical duties. The claimant also was expected to complete the notes by adding information from others who had been assisting Ms. Kurtti when she had obtained information from patients. When the information was supplied to Ms. Kurtti by other medical personnel to be included in that person's observation notes, Ms. Kurtti was expected to act only as a cleric recording the observations of other medical personnel.

As had been her common practice in the past, when questioned about her job performance, Ms. Kurtti became defensive and anxious; stating that she did not feel well and wanted to leave. Ms. Conners informed the claimant that leaving would be considered to be "job abandonment."

When Ms. Kurtti left at noon, the employer expected that she would return following her lunch period but the claimant did not do so. Later that day they received communication from the claimant's doctor, stating that the claimant could not work that day because she was upset.

Ms. Kurtti did not return the following day as expected but instead sent a communication to Dr. Lockman alleging that she had been required to perform duties that were illegal and unethical. Dr. Lockman immediately responded, denying the allegations and setting a time and date for Ms. Kurtti to meet with him to specifically address all of her concerns. Ms. Kurtti elected not to respond to the employer's offer until four hours after the meeting was to have taken place on January 20, 2015, and did not attend.

After leaving her employment at noon on January 14, 2015, Ms. Kurtti did not return to her employment but supplied doctor's notes, until she quit her job January 23, 2015. During the time that she initially left and the time that she submitted her resignation, Ms. Kurtti filed numerous complaints with the Department of Health and Human Services and other regulatory bodies; alleging fraud and unethical practices by the employer and the office. Although no investigation had yet taken place, and no findings had been made by the regulatory agencies on Ms. Kurtti allegations, the claimant asserts that because the Medical office is being investigated because of her own allegations, she has established good cause for leaving her employment with Advanced Wellness Sports & Spine.

#### **REASONING AND CONCLUSIONS OF LAW:**

The question before the administrative law judge is whether the evidence in the record establishes that the claimant left her employment with good cause attributable to the employer. It does not.

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.

Iowa Admin. Code r. 871-24.25(21), (27), and (28) provide:

Voluntary quit without good cause. 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 employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(21) The claimant left because of dissatisfaction with the work environment.

(27) The claimant left rather than perform the assigned work as instructed.

(28) The claimant left after being reprimanded.

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code Section 96.6(2). In general, a voluntary quit requires evidence of an intention to sever the employment relationship and overt act carrying out that intention. See Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980) and Peck v. Employment Appeal Board, 492 N.W. 2d 438 (Iowa Ct. App. 1992). In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in a relationship of an employee with the employer. See 871 IAC 24.25.

Quits due to detrimental or intolerable working conditions are deemed to be for good cause attributable to the employer. See 871 IAC 24.26(4). The test is whether a reasonable person would have quit under the circumstances. See Aalbers v. Iowa Department of Job Services, 431 N.W.2d 330 (Iowa 1988) and O'Brien v. Employment Appeal Board, 494 N.W.2d 660 (Iowa 1993).

When a person voluntarily quits the employment due to dissatisfaction with the work environment or that's person inability to work with other employees, the quit is deemed to be without good cause attributable to the employer. See 871 IAC 24.25(21) and (6).

In the case at hand, the evidence in the record establishes that Ms. Kurtti left her employment with Advanced Wellness Sports & Spine because she had been reprimanded and required to make additions and corrections to her nursing notes and to make entries in the nursing notes of other medical personnel performing a clerical function; transcribing information given by other medical personnel for inclusion into their patient notes as a clerical duty. The information provided by Dr. Lockman or other medical personnel, was to be entered not as Ms. Kurtti's information but transcribed as information provided by the individual who performed the services and obtained the information.

While away from her employment, Ms. Kurtti filed numerous complaints with regulatory agencies; alleging unlawful and unethical practices by the medical office and now asserts that she left employment because "the office had been reported for unethical and unlawful practices." During the hearing on this matter, the employer responded to all of Ms. Kurtti's allegations of unethical or illegal conduct; providing reasonable explanations, and sworn testimony that the office had not acted in any illegal or unethical way and that the claimant had not been required to act improperly or illegally and only had been reprimanded, for good cause, and required only to correct her nursing note errors and omissions or act in a clerical manner entering observations of other medical personnel as their observations and not the claimant's.

Although the employer was not informed why Ms. Kurtti had initially left employment on January 14, 2015 and did not return, the claimant had later emailed Dr. Lockman with allegations of unethical and illegal conduct as the reason with her job dissatisfaction. Ms. Kurtti refused to meet with Dr. Lockman, precluding the employer from addressing her concerns prior to quitting the job.

While Ms. Kurtti's reasons for leaving her employment may have been good personal reasons, the greater weight of the evidence indicates that Ms. Kurtti's quit was not for good cause attributable to the employer. Based on the evidence in the record and the application of the appropriate law, the administrative law judge concludes the claimant quit employment without good cause attributable to the employer.

The administrative law judge concludes that the claimant's primary reasons for leaving were her dissatisfaction with receiving a reprimand for unsatisfactory work and the requirement that she correct her errors. The employer's decision to issue the claimant a reprimand and require her to

correct errors in her nursing notes, was reasonable and work-related and did not provide the claimant a good cause reason for leaving her employment. A reasonable person would not have quit under the circumstances. Unemployment insurance benefits are withheld until the claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, and she is otherwise eligible.

**DECISION:**

The representative's decision dated February 6, 2015 (reference 01) is affirmed. The claimant voluntarily left employment without good cause attributable to the employer. Unemployment insurance benefits are withheld until the claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, and she is otherwise eligible.

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Terence P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

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