

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LACENDA J RICHARDSON
Claimant

APPEAL NO. 10A-UI-12706-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CARDIOVASCULAR MEDICINE PC
Employer

OC: 04/04/10
Claimant: Appellant (1)

Section 96.5(1) – Quit

STATEMENT OF THE CASE:

The claimant, Lacenda Richardson, filed an appeal from a decision dated September 2, 2010, reference 01. The decision disqualified her from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on October 27, 2010. The claimant participated on her own behalf. The employer, Cardiovascular Medicine (CVM) participated by Human Resources Coordinator Lindsay Heinrichs and Supervisor Jodi Lund.

ISSUE:

The issue is whether the claimant quit work with good cause attributable to the employer.

FINDINGS OF FACT:

Lacenda Richardson was employed by CVM from April 23, 2010 until July 22, 2010 as a full-time coder. On June 17, 2010, the claimant met with Human Resources Coordinator Lindsay Heinrichs about her problems with a co-worker, Pam. Ms. Richardson felt this person was very negative, used a “rude” tone of voice, and was not open to answering her questions.

The employer asked if Ms. Richardson had discussed her concerns with Pam directly and she had not. The claimant felt Pam would be physically violent if she did so, because at one staff meeting this co-worker had expressed her exasperation with another person by stating she would “kick her ass.” But, the claimant admitted she had never witnessed any form of physical aggression from Pam.

Instead, the claimant asked if she could be moved to another office or use an iPod, and neither of these suggestions were feasible. Ms. Heinrichs asked if the three of them could meet to discuss the concerns and the claimant refused. She suggested the claimant might consult with the EAP to get some ideas and skills on how to deal with her co-worker.

At the end of the meeting, the employer said she would discuss the complaint with Supervisor Jodi Lund. She did so and the supervisor said she would meet with Pam and notify her, without mentioning the claimant’s name, that she should be more aware of how she sounded and acted

when interacting with co-workers. Ms. Lund did this and Pam indicated she would be careful of what she said and how she said it.

On June 20, 2010, the work area was rearranged for business purposes and Ms. Richardson was placed as far as possible from Pam. When questioned by the employer on June 23, 2010, the claimant acknowledged that things had improved. She indicated she had not met with anyone at EAP.

The claimant brought no further concerns to the attention of her supervisor or the human resources coordinator. But on July 19, 2010, there was a reorganization of the work duties due to one employee being gone and a new one coming in. Ms. Richardson was not pleased with the duties she was assigned and said as much to Ms. Lund.

On July 22, 2010, she had been entering code information and did so in the order in which the work was received. She felt Pam was unhappy that she had not entered Pam's data first, although nothing had been said directly to the claimant. Ms. Richardson felt Pam was "stomping around" and assumed it was because of something she had done. Later that day, the claimant notified Ms. Heinrichs she was quitting because of Pam, that she did not like the duties she had been assigned, feeling it was "grunt work" and not the job she thought she had been hired to do. She also said she was considering going back to school.

REASONING AND CONCLUSIONS OF LAW:

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(6) and (21) 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:

(6) The claimant left as a result of an inability to work with other employees.

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

The claimant did properly notify the employer of her concerns on June 17, 2010, and the employer immediately addressed them. The supervisor spoke to the co-worker and the claimant's workstation was moved as far as possible from this other person's. No other complaints were brought to the attention of the employer after that time and, in fact, the claimant had said the situation had improved the last time the employer inquired.

The employer cannot act on a problem if it does not know it exists. In order for good cause attributable to the employer to exist, a claimant with grievances must make some effort to give the employer an opportunity to work out whatever problem led to the grievance. By not giving notice to the employer of the circumstances causing the decision to quit employment, the claimant failed to give the employer an opportunity to make adjustments that would alleviate the need to quit. *Denby v. Board of Review*, 567 P.2d 626 (Utah 1977).

The claimant's decision to quit was apparently precipitated by dissatisfaction with the new job duties. Her declaration that Pam was "stomping around" because she was unhappy with the claimant is unsupported by any specific information. The claimant's alleged fear of physical violence from this person is also not supported by any convincing evidence. A statement that Pam was going to kick someone's ass does not imply, absent any evidence of actual aggression, that she was dangerous to the claimant's wellbeing.

The claimant has failed to present any credible evidence of a hostile work environment, only that she personally did not like her job duties and a co-worker. Under the provisions of the above Administrative Code section, these do not constitute good cause attributable to the employer for quitting. Benefits are denied.

DECISION:

The representative's decision of September 2, 2010, reference 01, is affirmed. Lacenda Richardson is disqualified and benefits are withheld until she has earned ten times her weekly benefit amount, provided she is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/kjw