

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

NORMA TARIN
Claimant

APPEAL NO. 10A-UI-14058-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

HEARTLAND EMPLOYMENT SERVICES
Employer

OC: 05/31/09
Claimant: Appellant (2)

Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Norma Tarin filed an appeal from a representative's decision dated October 5, 2010, reference 02, which denied benefits based on her separation from Heartland Employment Services (Heartland). After due notice was issued, a hearing was held by telephone on December 1, 2010. Ms. Tarin participated personally. The employer participated by Sandy Davis, Supervisor, and was represented by Roxanne Rose of TALX Corporation.

ISSUE:

At issue in this matter is whether Ms. Tarin was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

Having heard the testimony and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Tarin began working for Heartland on September 3, 2009. She was hired to work from 30 to 40 hours each week as a dietary aide. In April of 2010, she was reduced to working approximately 20 hours each week due to low census in the facility. In August of 2010, her hours were further reduced to 10 to 15 hours each week. Other employees suffered a reduction in hours as well due to the low census.

Ms. Tarin's reduction in hours was accomplished by reducing the number of days she worked, not the number of hours she worked each day. In August, the employer hired another individual to work in the same capacity as Ms. Tarin in order to give workers time off. Ms. Tarin complained about the reduction in hours and threatened to quit. She was offered additional hours in April or May but the additional hours would have been in housekeeping, not dietary. Ms. Tarin declined the additional hours in housekeeping. She could have worked on-call in dietary but only wanted to work scheduled hours. Her last day of work was September 3 and she did not report to work or contact the employer thereafter.

REASONING AND CONCLUSIONS OF LAW:

Ms. Tarin voluntarily quit her employment with Heartland when she stopped reporting for available work. An individual who leaves employment voluntarily is disqualified from receiving job insurance benefits unless the quit was for good cause attributable to the employer. Iowa Code section 96.5(1). Ms. Tarin was absent for three days without notice to her employer. Under such circumstances, an individual is presumed to have left employment without good cause attributable to the employer. 871 IAC 24.25(4). However, it is a rebuttable presumption.

The administrative law judge concludes that Ms. Tarin has successfully rebutted the presumption that her quit was without good cause attributable to the employer. She left the employment because of a reduction in her work hours. She was hired to work from 30 to 40 hours each week but was only being provided from 10 to 15 hours each week at the time of separation. It was not unreasonable for Ms. Tarin to decline extra hours in housekeeping as she was not hired to work in that department. Although she may have been able to pick up additional hours in dietary on occasion, there was no guarantee of such hours.

The employer reduced Ms. Tarin's hours by approximately two thirds. This constituted a substantial change in the terms and conditions under which she was hired. She notified the employer that she was unhappy about the reduction and might quit as a result. Inasmuch as the hours for which she was hired were not restored, she had good cause attributable to the employer for quitting. 871 IAC 24.26(1). Accordingly, benefits are allowed.

DECISION:

The representative's decision dated October 5, 2010, reference 02, is hereby reversed. Ms. Tarin quit her employment for good cause attributable to the employer. Benefits are allowed, provided she is otherwise eligible.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/css