

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MARY J SCHUMACHER**  
Claimant

**APPEAL NO. 11A-UI-04551-LT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**WALGREEN PHARMACY SERVICES  
MIDWEST**  
Employer

**OC: 02/27/11  
Claimant: Respondent (1)**

Iowa Code § 96.5(1) – Voluntary Leaving

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from the March 28, 2011 (reference 01) decision that allowed benefits. After due notice was issued, a telephone conference hearing was held on May 25, 2011. Claimant participated. Employer participated through Susan Raymond, Mike Cox, and Jason Hansel and was represented by Cheryl Rodermund of Talx. Claimant's Exhibits A and B were admitted to the record.

**ISSUE:**

The issue is whether claimant voluntarily left the employment with good cause attributable to the employer.

**FINDINGS OF FACT:**

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: Claimant most recently worked full-time as a pharmacy technician from August 1983 and was separated from employment on February 14, 2011. She left because of the 12 reasons enumerated in Claimant's Exhibit A. Store manager Carolyn Reed, and staff members, who were interviewed as part of an investigation, did not testify. Claimant sought treatment from a psychiatrist "as a result of constant be little [sic], badgering, and, harassment." The psychiatrist told her she had "grounds for a lawsuit because of my work environment." When confronted about Reed's behavior towards her, company officials attributed it to Reed's lack of "good manners" and Reed's personality. Claimant had no issues with previous managers during her 23 years of employment.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left the employment 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.

A notice of an intent to quit had been required by *Cobb v. Employment Appeal Board*, 506 N.W.2d 445, 447-78 (Iowa 1993), *Suluki v. Employment Appeal Board*, 503 N.W.2d 402, 405 (Iowa 1993), and *Swanson v. Employment Appeal Board*, 554 N.W.2d 294, 296 (Iowa Ct. App. 1996). Those cases required an employee to give an employer notice of intent to quit, thus giving the employer an opportunity to cure working conditions. However, in 1995, the Iowa Administrative Code was amended to include an intent-to-quit requirement. The requirement was only added to rule 871 IAC 24.26(6)(b), the provision addressing work-related health problems. No intent-to-quit requirement was added to rule 871 IAC 24.26(4), the intolerable working conditions provision. Our supreme court recently concluded that, because the intent-to-quit requirement was added to 871 IAC 24.26(6)(b) but not 871 IAC 24.26(4), notice of intent to quit is not required for intolerable working conditions. *Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1 (Iowa 2005).

Although claimant's treating physician gave her more of a legal opinion than medical, it is clear from the reference that he did not believe the employment was in her best medical interest. The claimant's testimony about the issues with Reed and the employer's attribution to Reed's personality is credible given her lack of conflict with prior managers in her lengthy work history with the employer and Reed's failure to participate. Reed created an intolerable work environment for claimant that gave rise to a good cause reason for leaving the employment. Benefits are allowed.

**DECISION:**

The March 28, 2011 (reference 01) decision is affirmed. The claimant voluntarily left her employment with good cause attributable to the employer. Benefits are allowed, provided the claimant is otherwise eligible.

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Dévon M. Lewis  
Administrative Law Judge

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Decision Dated and Mailed

dml/pjs