

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KATHIE S BADING
Claimant

APPEAL NO. 11A-UI-15235-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MERCY MEDICAL CENTER
Employer

OC: 10/23/11
Claimant: Appellant (2)

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed a timely appeal from a representative's decision dated November 18, 2011, reference 01, which denied unemployment insurance benefits. After due notice, a telephone hearing was held on December 21, 2011. The claimant participated personally. Although the employer submitted a telephone number the witness was not available at the telephone number provided.

ISSUE:

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

FINDINGS OF FACT:

Having considered the evidence in the record, the administrative law judge finds: Kathie Bading was employed by Mercy Medical Center from October 4, 2001 until August 5, 2011 when she left her employment. Ms. Bading held the position of full-time central sterile technician and was paid by the hour. Her immediate supervisor was Sue Erickson.

Ms. Bading left her employment with Mercy Medical Center after complaints that she had made to the company's human resource department about harassment in the Central Sterile Department went unheeded and because the employer threatened to remove her from her normal job position while the claimant remained on a medical leave of absence and medically unable to return to work. Ms. Bading left her employment after she was told that she would be removed from her job as a central sterile technician. She did not return from her medical leave of absence although the employer was aware that the claimant had not been medically released to do so.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes that the claimant voluntarily left employment with good cause attributable to the employer.

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 24.26(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.

871 IAC 24.26(1) 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:

(1) A change in the contract of hire. An employer's willful breach of contract of hire shall not be a disqualifiable issue. This would include any change that would jeopardize the worker's safety, health or morals. The change of contract of hire must be substantial in nature and could involve changes in working hours, shifts, remuneration, location of employment, drastic modification in type of work, etc. Minor changes in a worker's routine on the job would not constitute a change of contract of hire.

The claimant has the burden of proofing that the voluntary leaving was for good cause attributable to the employer. Iowa Code section 96.6-2.

An individual who voluntarily leaves their employment must first give notice to the employer of the reasons for quitting in order to give the employer an opportunity to address or resolve the complaint. Cobb v. Employment Appeal Board, 506 N.W.2d 445 (Iowa 1993). Claimants are not required to give notice of an intention to quit due to intolerable or detrimental working environments if the employer had or should have had reasonable knowledge of the condition. Hy-Vee v. Employment Appeal Board, 710 N.W.2d 1 (Iowa 2000).

The claimant in this case left employment after complaints about harassment in her department went unheeded by the hospital's human resource department and the claimant was in effect chastised for bringing the complaint to the attention of the employer. Ms. Bading made a final decision to leave employment when her supervisor threatened to change the agreement of hire by forcing the claimant out of her normal job position if the claimant were not willing to return to work prior to being released by her physician. There being no evidence to the contrary, the administrative law judge concludes that the claimant has established her burden of proof in establishing good cause for leaving attributable to the employer. Unemployment insurance benefits are allowed providing the claimant is otherwise eligible.

DECISION:

The representative's decision dated November 18, 2011, reference 01, is reversed. The claimant left employment with good cause attributable to the employer. Unemployment insurance benefits are allowed, providing the claimant is otherwise eligible.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

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