

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JENNIFER E BACK
Claimant

APPEAL NO. 10A-UI-02203-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WESTSIDE ORTHOPAEDICS PC
Employer

**OC: 01/10/10
Claimant: Appellant (1)**

Section 96.5-2-a – Discharge
Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Jennifer Back filed a timely appeal from a representative's decision dated February 1, 2010, reference 01, which found claimant eligible to receive unemployment insurance benefits from the date of her termination January 10, 2010 until the date of her resignation January 30, 2010 upon a finding that the claimant's resignation was not caused by the employer. After due notice, a telephone conference hearing was scheduled for and held on March 29, 2010. The claimant participated personally. The employer participated by Ms. Holly Fens, Office/Nurse Manager.

ISSUE:

The issue is whether the claimant left employment for reasons attributable to the employer.

FINDINGS OF FACT:

Having considered the evidence in the record, the administrative law judge finds: Claimant quit her employment with Westside Orthopaedics PC due to general dissatisfaction with the manner in which the office is being administered by the office manager, Holly Fens and because of dissatisfaction with the employer's decision to reduce a holiday pay stipend because of the claimant's absence the preceding day.

Ms. Back had threatened to leave employment by tendering her resignation on July 9, 2009 to be effective December 31, 2009. Ms. Back rescinded her resignation as a pay dispute had been resolved at that time. After being informed, however, that she would not receive a limited number of hours of discretionary holiday pay because she had been absent the preceding day, the claimant once again tendered her notice of intention to quit employment giving the notice to her employer on January 4, 2010. Ms. Back indicated that her last day of employment would be January 29, 2010. After considering the matter, the employer found another internal applicant to replace the claimant in her job position and informed the claimant that her services were no longer needed effective January 10, 2010. The claimant held the position of full-time schedule coordinator and was paid by the hour. Her immediate supervisor was Holly Fens.

The claimant most recently decided to tender her resignation based not only upon her primary reason for dissatisfaction relating to the lack of holiday pay, but also because she was dissatisfied with the manner in which the office manager administered the office and provided information to the claimant and other office workers. The office was implementing a paid time off policy pooling available number of hours away from work instead of apportioning them to vacation or pay. Employees were generally informed of the change in the policy and were aware that their number of "pool hours" would be equal to the time away from work that they had been previously been allowed under the company's vacation/sick day policies. Employees were also aware that some requests for time off could not be immediately granted depending upon staffing needs. Ms. Back had been counseled by Dr. Field, the Office Owner, to attempt to improve her attendance. Dr. Field emphasized the need for a schedule to work full time and the office's dependence upon the claimant to attempt to fulfill that obligation. Although Ms. Back had been absent on a number of occasions for child care reasons, she believed that the office owner's caveat was unnecessarily inappropriate and tantamount to termination.

REASONING AND CONCLUSIONS OF LAW:

Based upon the evidence in the record, the administrative law judge finds that the claimant's leaving was not attributable to the employer. The policies being changed by the office were reasonable and employees were given reasonable notice of the changes being implemented. The changes being implemented did not personally negatively impact the claimant and the claimant was provided additional information when she made inquiries. The administrative law judge finds the employer's caveat to the claimant to attempt to work 40 hours for her full-time position to be reasonable and job related the employer's statement to Ms. Back did not impart that she was being discharged and was meant as a caveat to attempt to improve her attendance. The employer's decision not to provide additional discretionary holiday pay because of her absence the preceding day was reasonable and at the employer's discretion.

While Ms. Back's reasons for leaving employment were undoubtedly good from her personal viewpoint, they are not good cause reasons attributable to the employer. Claimant is eligible for unemployment insurance benefits from January 10, 2010, the date of her termination, until January 30, 2010, the date of her resignation, provided that she meets all other eligibility requirements of Iowa law. Benefits thereafter are withheld.

DECISION:

The department's decision dated February 1, 2010, reference 01, is affirmed. The claimant is eligible to receive unemployment insurance benefits from January 10, 2010 until January 30,

2010. The claimant is disqualified thereafter until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, providing that she meets all other eligibility requirements of Iowa law.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs