

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JUDITH TUCKER**  
Claimant

**APPEAL NO. 11A-UI-12615-W**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**COMMUNITY CARE INC**  
Employer

**OC: 08/28/11  
Claimant: Respondent (1)**

Section 96.5-1 – Voluntary Quit

**STATEMENT OF THE CASE:**

Employer filed an appeal from a decision of a representative dated September 22, 2011, reference 01, which held claimant eligible for unemployment insurance benefits. After due notice, an in-person hearing was scheduled for and held on February 9, 2011, in Cedar Rapids. Claimants participated through attorney, Katie Ervin Carlson. Employer participated through attorney, Joe Laverty and witnesses, Angela Ganzer-Bovitz and Michael DeMouilly, Director of Human Resources. Employer Exhibits 1-4 were admitted into evidence.

**ISSUE:**

The issue in this matter is whether claimant quit with good cause attributable to the employer.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on July 26, 2011. She was the office manager. The employer had released several employees from work. On July 25, Ms. Tucker received threatening phone calls at home which she believed were related to employees being released from work. The following day, she reported this to Kristina Brown, the Administrator. Ms. Brown told claimant that she had nothing to do with these employees losing their jobs. Ms. Brown told claimant to call Angela Ganzer-Bovitz. Claimant did. Ms. Ganzer-Bovitz told claimant to write up a statement. She did. When she wrote it up, she stated in the written statement that she was quitting.

The claimant was scared. She also subjectively believed that she was going to be fired. She quit preemptively to avoid being terminated because she did not want to lose her paid time off or to have a negative mark on her employment record. After turning in the resignation, Ms. Brown told claimant to rewrite the resignation without any details. After turning in the resignation, claimant turned in a form requesting to transfer to an open position. Once the claimant turned in her resignation, the employer did nothing to follow up on the threats against the claimant.

**REASONING AND CONCLUSIONS OF LAW:**

The administrative law judge holds that the evidence has established that claimant voluntarily quit for good cause attributable to the employer when claimant terminated the employment relationship because she was threatened by individuals in conjunction with her employment.

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.

This is a close case. A claimant may not prematurely quit a position because of a speculative belief that she is likely to be terminated. Likewise, the fear of losing paid time off is not considered "good cause attributable to the employer."

In this case, however, the claimant had been threatened in conjunction with her employment. The claimant is found to be credible that she was threatened in connection with her employment. When she reported this, the employer treated the allegation as though it was a personal matter despite the fact that she clearly reported that the anonymous caller stated "a lot of people lost their jobs because of you." While the employer correctly points out that the claimant did not give the employer much time to address the concern, the employer continuously maintained that the threat was considered to be a "personal" threat, not an employment related threat. The fact remains, the employer, in fact, did not investigate the threat at all. In the final analysis, the claimant reasonably believed that her working conditions had become unsafe, detrimental and intolerable. Her actions in quitting were reasonable and were for good cause attributable to the employer.

**DECISION:**

The decision of the representative dated September 22, 2011, reference 01, is affirmed. Claimant is eligible to receive unemployment insurance benefits, provided claimant meets all other eligibility requirements.

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Joseph L. Walsh  
Administrative Law Judge

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Decision Dated and Mailed

jlw/pjs