

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

MELISSA A STEWARD
Claimant

APPEAL NO. 18A-UI-05591-TN-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

CROSSROADS OF WESTERN IOWA
Employer

OC: 04/15/18
Claimant: Appellant (2)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

Melissa Steward, the claimant, filed a timely appeal from a representative's unemployment insurance decision dated May 7, 2018, reference 01, which denied unemployment insurance benefits, finding that the claimant had voluntarily quit employment on April 20, 2018 by refusing to continue working. After due notice was provided, a telephone hearing was scheduled for and held on June 6, 2018. Claimant participated. Participating on behalf of the claimant was Mr. William Deck, Attorney at Law. The employer participated by Ms. Terice Shavont, Director, and Ms. Aralene Shockman, Program Manager/Residential.

ISSUE:

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

FINDINGS OF FACT:

Having considered all of the evidence in the record, the administrative law judge finds: Melissa Steward was employed by Crossroads of Western Iowa from October 7, 2016 until April 20, 2018, when she left her employment rather than accept a work assignment that she considered detrimental. Ms. Steward was employed as a full-time residential coach providing living assistance to adult individuals with learning or functional disabilities in residential home settings. Ms. Steward was paid \$12.36 per hour. Her last immediate supervisor was Ms. Chris Jones.

On April 17, 2018, Ms. Steward noted that she had not been scheduled to continue working in the group home where she had been most recently assigned for approximately one and one-half years, but was being assigned to a different group home on Nicolette Street effective April 20, 2018. Ms. Steward had grave concerns about working at the Nicolette house because she had received an email from Ms. Jones, her supervisor, approximately one week before advising that the Nicolette house was infected with bed bugs. Ms. Steward had also received information that a number of the residents at the Nicolette location also had scabies. The claimant tried to meet with Ms. Shockman, the residential program manager, on April 18, but Ms. Shockman was not able to meet with her. The parties met on April 19, 2018.

On that date, Ms. Steward expressed her concerns about being assigned to the Nicolette Street house. Ms. Steward had previously encountered a bed bug infestation at the Beck Street house when she was initially assigned to that location and had suffered an infestation of bed bugs at her house and the residence of a friend because of the contact. The claimant has spent a large sum of money in paying for a two-step eradication regimen to rid the personal residences of the bed bugs. The Beck Street location had subsequently been commercially treated and the bed bug problem was resolved at that location. Ms. Steward believed that she was being assigned to the Nicolette Street location because other employees were quitting from that location. Based upon her personal experience with the bed bug infestation, she asked that her assignment be changed.

Because the Nicolette Street location was one of the locations where Ms. Steward had received some initial training in the past, the employer was unwilling to reschedule her to any other location or allow Ms. Steward to stay at the Beck Street house. Ms. Shockman offered the claimant the alternative of switching assignments on a day-by-day basis with other Crossroads of Western Iowa employees who worked at different locations if they were willing switch. Ms. Shockman stated that the bed bug infestation at the Nicolette Street house had been eradicated. When Ms. Steward asked for some verification that professional eradication had taken place, the employer was not willing to supply any documentation. Ms. Steward reasonably concluded that other employees would not be willing to trade with her because the employees were aware of the issue at the Nicolette Street house as well. The meeting ended without being resolved. The employer continued to stand by the new schedule offering the claimant only the option of attempting trading on a day-by-day basis with other employees. Ms. Steward continued to be reluctant to accept the assignment change based upon her previous bad experience with bed bugs at the location where she was currently assigned and her fears of recontamination and the cost.

Later in the evening, it appears that a resident sent Ms. Steward a text message about her employment. Ms. Steward felt the matter was personal and not any concern of the resident. She responded that she had quit to halt any further text communication from that individual. The client informed Ms. Jones, the claimant's supervisor, that Ms. Steward had quit. Ms. Jones telephoned Ms. Steward to confirm whether or not the claimant had quit employment. The testimony is disputed as to whether the claimant had agreed that she quit or had not made that statement. Ms. Steward did not report for work at the Nicolette Street house as scheduled on April 20, 2018, or thereafter, leading the employer to reasonably conclude that Ms. Steward had quit employment.

REASONING AND CONCLUSIONS OF LAW:

The question before the administrative law judge is whether the evidence in the record establishes that the claimant left employment with good cause attributable to the employer. It does.

Iowa Code section 96.5(1) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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.

Iowa Admin. Code r. 871-24.25(21) provides:

Voluntary quit without good cause. In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(21) The claimant left because of dissatisfaction with the work environment.

Iowa Admin. Code r. 871-24.25(27) provides:

Voluntary quit without good cause. In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(27) The claimant left rather than perform the assigned work as instructed.

Iowa Admin. Code r. 871-24.26(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.

An individual who leaves employment voluntarily is disqualified from receiving unemployment insurance benefits unless the quit was for good cause attributable to the employer. Iowa Code Section 96.5(1).

When a person voluntarily quits employment due to general dissatisfaction with the work environment or the ability to work with other employees, the quit is presumed to be without good cause attributable to the employer. See 871 IAC 24.26(4). The test is whether a reasonable person would have quit under the circumstances. See *Aalbers v. Iowa Department of Job Service*, 431 N.W.2d 330 (Iowa 1988) and *O'Brien v. Employment Appeal Bd.*, 494 N.W.2d 660 (1993).

In the case at hand, Ms. Steward left her employment with Crossroads of Western Iowa when the employer was unwilling to change her work assignment, or in the alternative, provide some verification to Ms. Steward that the house she was being assigned to had been professionally treated to eradicate bed bug/scabies infestation. The claimant had recently received credible information from her supervisor that the Nicolette Street house was infested and the claimant

was reasonable in her belief that she might again suffer infestation of her personal living quarters unless the house had been professionally treated with a two-step process. Because Ms. Steward has previously gone through infestation of her residence and that of a friend's residence under similar circumstances while employed by Crossroads of Western Iowa, she had good cause to believe that her new assignment was detrimental and intolerable based upon the employer's unwillingness to provide any verification that the house had been properly treated and the employer's unwillingness to change the work assignment to a location that was free of infestation. The administrative law judge concludes that a reasonable person would have quit under the circumstances. Accordingly, the claimant has established good cause attributable to the employer for leaving employment. Benefits are allowed, provided the claimant is otherwise eligible.

DECISION:

The representative's unemployment insurance decision dated May 7, 2018, reference 01, is reversed. Claimant left employment with good cause attributable to the employer. Unemployment insurance benefits are allowed, provided the claimant is otherwise eligible.

Terry P. Nice
Administrative Law Judge

Decision Dated and Mailed

rvs/rvs