

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**RHETA L GARMON**  
Claimant

**APPEAL NO. 08A-UI-05406-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OTTUMWA REGIONAL HEALTH CTR INC**  
Employer

**OC: 05/11/08 R: 03**  
**Claimant: Appellant (1)**

Iowa Code Section 96.5(1) – Voluntary Quit

**STATEMENT OF THE CASE:**

Rheta Garmon filed a timely appeal from the June 4, 2008, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on June 23, 2008. Ms. Garmon participated. Janey Huston, Employment Coordinator, represented the employer.

**ISSUE:**

Whether the claimant's voluntary quit was for good cause attributable to the employer.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Rheta Garmon was employed by Ottumwa Regional Health Center as a full-time Residential Tech from October 16, 2006 until May 9, 2008, when she voluntarily quit. Ms. Garmon's regular work hours were 11:00 p.m. to 7:00 a.m., five to six days per week.

Two weeks prior to the effective date of the quit, Ms. Garmon submitted a written resignation to Michelle Schultz, Administrative Director of Behavioral Health Services. Ms. Garmon indicated her last day would be May 8, 2008. In the resignation letter, Ms. Garmon provided several reasons for her decision to leave the employment. Ms. Garmon cited her obligation to work 12-hour shifts and her belief that she unfairly shouldered the obligation to work longer shifts. Ms. Garmon cited her concern that the employer assigned the scheduling duties to an hourly employee rather than a supervisor. Ms. Garmon cited the price of gas, the conflict between her work obligations and her academic studies, and her conclusion that it was time to move on to find work more in tune with her career goals. Ms. Garmon is pursuing a Master's Degree through an on-line program. Ms. Garmon indicated that she had enjoyed her time in the employment.

Occasional 12-hour shifts were an established condition of Ms. Garmon's employment. Ms. Garmon had most recently worked a 12-hour shift on April 27, 2008. Ms. Garmon had worked a 10.25-hour shift on February 28 and a 12.25-hour shift on March 9. At the time Ms. Garmon submitted her resume, she anticipated that she would soon be called upon to work a greater number of 12-hour shifts in connection with a coworker commencing a leave of

absence. The same coworker had been away from work in 2007, which had resulted in Mr. Garmon working additional 12-hour shifts. However, there had been no recent increase in the number or frequency of Ms. Garmon's 12-hour shifts at the time she resigned from the employment. Ms. Garmon understood that the employer needed to staff the facility with Residential Techs around the clock. Ms. Garmon disliked the 12-hour shifts because she felt overly tired and unsafe driving home at the end of the longer shifts. Ms. Garmon also disliked the 12-hour shifts because they took time and energy that she needed for her studies.

## **REASONING AND CONCLUSIONS OF LAW:**

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.

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 698, 612 (Iowa 1980) and Peck v. EAB, 492 N.W.2d 438 (Iowa App. 1992). 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. See 871 IAC 24.25.

Workforce Development rule 871 IAC 24.25, provides, in relevant part as follows:

The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

24.25(18) The claimant left because of a dislike of the shift worked.

24.25(26) The claimant left to go to school.

24.25(30) The claimant left due to the commuting distance to the job; however, the claimant was aware of the distance when hired.

The greater weight of the evidence in the record indicates that Ms. Garmon had legitimate personal reasons for leaving the employment. However, the evidence fails to establish that Ms. Garmon's voluntary quit was for good cause attributable to the employer. The evidence indicates that Ms. Garmon's established conditions of employment remained unchanged.

Because Ms. Garmon's voluntarily quit was without good cause attributable to the employer, Ms. Garmon is disqualified for unemployment insurance benefits until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. The employer's account shall not be charged for benefits paid to Ms. Garmon.

**DECISION:**

The Agency representative's June 4, 2008, reference 01, decision is affirmed. The claimant voluntarily quit the employment without good cause attributable to the employer. The claimant is disqualified for benefits until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. The employer's account shall not be charged.

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James E. Timberland  
Administrative Law Judge

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Decision Dated and Mailed

jet/pjs