

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TAMARA J KAYOKELA
Claimant

APPEAL NO. 15A-UI-02109-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

AHF/KENTUCKY - IA
Employer

OC: 01/25/15
Claimant: Appellant (2)

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Tamara Kayokela (claimant) appealed a representative's February 10, 2015, decision (reference 01) that concluded she was not eligible to receive unemployment insurance benefits because she voluntarily quit work with AHF/Kentucky (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for March 18, 2015. The claimant participated personally. The employer participated by Matthew Carpenter, Administrator, and Russ Milane, Director of Nurses

ISSUE:

The issue is whether the claimant was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on May 15, 2014, as an as-needed certified nursing assistant. She worked more than 40 hours per week.

On or about January 18, 2015, the claimant found injuries on a resident. She is a mandatory reporter and reported them. The employer told two workers that the claimant turned them in for abuse. This was not true. The claimant only reported injuries to the resident. The two workers contacted the claimant separately. One cussed at the claimant, hoped the claimant would die, and refused to work with the claimant. The other no longer felt safe working with the claimant and would not help the claimant with transfers. On January 19, 2015, the claimant met with the director of nurses (DON) and was crying. Her confidentiality had been breached. The DON did not listen to the claimant's concerns. He told the claimant to keep working. The claimant could not work without help from co-workers. She complained that co-workers felt negatively to her. The claimant resigned on January 19, 2015, due to her working conditions.

REASONING AND CONCLUSIONS OF LAW:

For the following reasons the administrative law judge concludes the claimant voluntarily quit work with good cause attributable to the employer.

Iowa Code § 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.

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.

The law presumes a claimant has left employment with good cause when she quits because of intolerable or detrimental working conditions. 871 IAC 24.26(4). It would be reasonable for the employee to inform the employer about the conditions the employee believes are intolerable or detrimental and to have the employee notify the employer that she intends to quit employment unless the conditions are corrected. This would allow the employer a chance to correct those conditions before a quit would occur. However, the Iowa Supreme Court has stated that a notice of intent to quit is not required when the employee quits due to intolerable or detrimental working conditions. Hy-vee, Inc. v. Employment Appeal Board and Diyonda L. Avant, (No. 86/04-0762) (Iowa Sup. Ct. November 18, 2005). The claimant notified the employer of the intolerable working conditions. The claimant subsequently quit due to those conditions. The claimant is eligible to receive unemployment insurance benefits.

DECISION:

The representative's February 10, 2015, decision (reference 01) is reversed. The claimant voluntarily quit with good cause attributable to the employer. The claimant is eligible to receive unemployment insurance benefits.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/pjs

