

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

FAYE A SMART
Claimant

APPEAL NO. 08A-UI-03239-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

GOOD SAMARITAN SOCIETY INC
Employer

OC: 02/24/08 R: 01
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

Faye A. Smart (claimant) appealed a representative's March 24, 2008 decision (reference 01) that concluded she was not qualified to receive unemployment insurance benefits after a separation from employment from Good Samaritan Society, Inc. (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on April 16, 2008. This appeal was consolidated for hearing with one related appeal, 08A-UI-03240-DT. The claimant participated in the hearing. Dana Plath appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the claimant voluntarily quit for a good cause attributable to the employer?

FINDINGS OF FACT:

The claimant started working for the employer on September 20, 2006. She worked part time (approximately 38 hours per week) as a housekeeper in the employer's Manson, Iowa, skilled nursing facility. Her last day of work was February 20, 2008. On February 8 she had provided her written notice of resignation effective February 23, 2008; as a result of the claimant's normal every other weekend scheduling and her calling off work due to straining her back off work on or about February 21, she did not work after February 20. After tendering her resignation, she had offered to stay on working with the employer after February 23 until the employer hired a replacement, but on or about February 21 the employer advised the claimant it was accepting the February 23 effective date.

The primary reason the claimant resigned was to pursue the possibility of better employment elsewhere. However, she had not been offered and had not accepted other employment at the time she tendered her resignation. The secondary reason she offered her resignation was because of being uncomfortable with her supervisor, but the most recent issue relating to the supervisor had been in approximately November 2007 regarding the supervisor taking long breaks. The employer had addressed that situation at the time. The claimant was also not

happy with some issues regarding some of her coworkers, such as having to work a shift alone on February 5 because the other housekeeper called in sick. Also another housekeeper who lived in the same premises as the claimant had made a statement to her in the spring of 2007 that if the claimant reported some off-duty conduct to the employer, "one of us might lose our job." The primary reason the claimant established a claim for unemployment insurance benefits was because while off work on or about February 21 she had fallen and injured her back, preventing her from pursuing new employment at that time as she had intended.

REASONING AND CONCLUSIONS OF LAW:

If the claimant voluntarily quit her employment, she is not eligible for unemployment insurance benefits unless it was for 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.

871 IAC 24.25 provides that, 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. A voluntary leaving of employment requires an intention to terminate the employment relationship. Bartelt v. Employment Appeal Board, 494 N.W.2d 684 (Iowa 1993). The claimant did express or exhibit the intent to cease working for the employer and did act to carry it out. The claimant would be disqualified for unemployment insurance benefits unless she voluntarily quit for good cause.

The claimant has the burden of proving that the voluntary quit was for a good cause that would not disqualify her. Iowa Code § 96.6-2. Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3), (4). Leaving because of a dissatisfaction with the work environment or a personality conflict with a supervisor or coworkers is not good cause. 871 IAC 24.25(6), (21), (23). Quitting in order to seek new employment where other employment has not been found in advance of quitting is not good cause. 871 IAC 24.25(3). The claimant has not provided sufficient evidence to conclude that a reasonable person would find the employer's work environment detrimental or intolerable. O'Brien v. Employment Appeal Board, 494 N.W.2d 660 (Iowa 1993); Uniweld Products v. Industrial Relations Commission, 277 So.2d 827 (FL App. 1973). Further, while there may have been incidents in the past that were at least not ideal, the claimant has not presented information indicating that there were any current incidents of an intolerable nature. Olson v. Employment Appeal Board, 460 N.W.2d 865 (Iowa App. 1990).

As to the claimant seeking to continue her employment after providing the employer with an effective date of her resignation, the employer was within its rights to accept the claimant's resignation and abide by the effective date she had provided at that time. Langley v. Employment Appeal Board, 490 N.W.2d 300 (Iowa App. 1992). Further, as to the claimant's desire to receive unemployment insurance benefits after the separation from employment since she became injured and was thereby hampered in carrying out her intended search for other better employment, unemployment insurance benefits are not intended to substitute for health or disability benefits, and cannot be used to provide benefits to an individual who has left prior employment without good cause attributable to that prior employer. White v. Employment

Appeal Board, 487 N.W.2d 342 (Iowa 1992). The claimant has not satisfied her burden. Benefits are denied.

DECISION:

The representative's March 24, 2008 decision (reference 01) is affirmed. The claimant voluntarily left her employment without good cause attributable to the employer. As of February 23, 2008, benefits are withheld until such time as the claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/css