

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BRENDA D CHAPPELL
Claimant

APPEAL NO. 13A-UI-01663-N

**ADMINISTRATIVE LAW JUDGE
DECISION**

JACKIE JAGER
IOWA SCHOOL FOR THE DEAF
Employer

OC: 01/06/13
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Brenda Chappell filed a timely appeal from a representative's decision dated February 4, 2013, reference 01, which denied unemployment insurance benefits. After due notice was provided, a hearing was held in Council Bluffs, Iowa on April 18, 2013. The claimant participated. Accompanying the claimant but not testifying was Ms. Debbie Hohler, the claimant's sister. The employer participated by Ms. Deb LeHeup, the director of human resources and Mr. Nyle Smith, the resident dean. The official transliterator was Ms. Karen Potter-Maxwell. The Claimant's Exhibits A, B & C and Employer's Exhibit One were received into evidence.

ISSUE:

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

FINDINGS OF FACT:

Having considered the evidence in the record, the administrative law judge finds: Brenda Chappell began employment with the Iowa School for the Deaf in January 2006. Ms. Chappell was employed as a full-time residential counselor and was paid by salary. Her last immediate supervisor was Mr. Nyle Smith, the resident dean. The claimant also worked under some supervision by Jolene Froehle.

Ms. Chappell left her employment on January 9, 2013 in anticipation that she would not be able to meet the employer's expectations on a corrective action plan and that she would be discharged at the next meeting. The claimant had initially been placed on a corrective action plan on October 8, 2012 because of employer concerns about student safety and omissions on Ms. Chappell's part. The employer also believed the claimant had at times made discouraging remarks to colleagues. Ms. Chappell was initially placed on a five-week corrective action plan. When she did not demonstrate a level of improvement expected by her supervisor, the action plan was extended on November 7, 2012 and at that time once again extended until Wednesday, December 19, 2012. The parties met on December 19 and on January 9. Ms. Chappell was once again informed by Mr. Smith that she was not meeting all the

expectations and the action plan was further continued for a final summary and decision by her employer that was to take place on January 24, 2013.

A number of the reasons for the action plan and the employer's expectations for the claimant were set forth simply, others, however, were more of a generalized nature such as requiring the claimant to recognize her own errors of unsatisfactory performance and requiring the claimant to implement a plan to self-improve on those issues. The employer provided the claimant the assistance of a mentor and ongoing feedback as the process continued.

Ms. Chappell, who had been employed in the same capacity for a number of years, believed that she was performing the majority of her duties in a satisfactory manner and disagreed with Mr. Smith's requirements in the action plan and believed that Mr. Smith did not have sufficient firsthand information to justify his concerns or conclusions. Based upon the repetitive nature of the decisions to keep extending the actions plans it appears, the claimant believed that her termination from employment was becoming inevitable.

Prior to her leaving her employment however, Ms. Chappell did not attempt to go outside or up the chain of command to complain that she felt that the corrective action plan, its requirements or the conclusions that were being reached were unjustified. Ms. Chappell knew or should have known that she could file a grievance in the matter or bring her concerns to a higher authority in the organization or to the organization's human resource department. It appears the claimant considered these actions but concluded they would be futile.

Ms. Chappell tendered her resignation without advance notice on January 9, 2013 when informed that the decision about whether she had successfully completed the correction action plan would be delayed yet again.

REASONING AND CONCLUSIONS OF LAW:

The question before the administrative law judge is whether the evidence of the record establishes that the claimant left employment with good cause attributable to the employer. It does not.

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 24.25(22) and (28) provide:

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:

- (22) The claimant left because of a personality conflict with the supervisor.
- (28) The claimant left after being reprimanded.

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.

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. 871 IAC 96.6(2). An individual who voluntarily leaves her employment must first give notice to the employer the reasons for quitting in order to give the employer an opportunity to address or resolve the complaint. Cobb v. Employment Appeal Board, 506 N.W.2d 445 (Iowa 1993). Claimants are not required to give notice of intention to quit due to intolerable, detrimental or unsafe working environments if the employer had or should have had reasonable knowledge of the condition. Hy-Vee v. Employment Appeal Board, 710 N.W.2d 1 (Iowa 2000).

Quits due to intolerable or detrimental working conditions are deemed to be for 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 Board, 494 N.W.2d 660 (Iowa 1993).

The evidence in the record does not establish that the working conditions were intolerable or that the employer had intentionally created a hostile work environment. The evidence does establish, however, that Ms. Chappell was concerned that she might not be receiving a fair assessment of her skills and improvements after being placed on a number of corrective action plans and the vague nature of some of the employer's expectations in the action plans. Ms. Chappell left her employment on January 9, 2013. The claimant had not been discharged at that time but had been told that a final decision about her ongoing employment would be made on January 24, 2013. Although the claimant anticipated that she might be discharged, Ms. Chappell did not use reasonable alternatives that were available to her. The claimant did not complain up the chain of command to the facility superintendent nor to the facilities' human resource department or file a grievance in the matter. Ms. Chappell also did not indicate to the employer that she would quit her job unless the matter was reviewed or some accommodations made to her. Ms. Chappell maintains that due to "nepotism" and friendship among some management members it would do no good to complain. The claimant, however, agrees that other members of upper management were detached and that the claimant had no issues in dealing with them.

Although sympathetic to the claimant's situation, the administrative law judge concludes that the employer did have a right to supervise the claimant and to expect compliance with reasonable job expectations. Although the claimant disagreed with the corrective action plans and how they were being assessed, she did not provide her employer an opportunity to rectify her complaints for leaving without advance notice on January 9, 2013.

For the reasons stated herein, the administrative law judge concludes that the claimant left employment without good cause attributable to the employer and unemployment insurance benefits are withheld.

DECISION:

The representative's decision dated February 4, 2013, reference 01, is affirmed. Claimant left employment without good cause attributable to the employer. Unemployment insurance benefits are withheld until the claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount and is otherwise eligible.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

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