

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MARY E DORNATH
Claimant

APPEAL NO. 11A-UI-11235-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

FRIENDSHIP HAVEN INC
Employer

**OC: 07/24/11
Claimant: Appellant (1)**

Section 96.5-1- Voluntary Quit

STATEMENT OF THE CASE:

The claimant filed a timely appeal from a representative's decision dated August 16, 2011, reference 01, which denied unemployment insurance benefits finding the claimant voluntarily quit employment without good cause attributable to the employer. After due notice, a telephone conference hearing was held on September 20, 2011. Claimant participated. The employer participated by Mr. Ed McIntosh, Attorney at Law, and witness, Ms. Julie Thorson, Administrator.

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: Mary Dornath was employed by Friendship Haven, Inc. from October 15, 2008 until July 27, 2011 when she voluntarily resigned her position. Ms. Dornath was employed as a full-time housekeeper and was paid by the hour. Her immediate supervisor was Mary Jean Alrich.

Ms. Dornath left her employment by submitting a written resignation on July 27, 2011. The claimant left due to dissatisfaction with what she considered to be failure of management of Friendship Haven to keep confidential a complaint that she had made about another housekeeping worker.

On July 15, 2011, Ms. Dornath had complained that another housekeeper, Stephanie, was visiting in a resident's room with Stephanie's sister and the privacy rights of the resident were not being followed. One week later the other housekeeper, Stephanie, told Ms. Dornath to "mind her own business" stating the incident with the resident "only happened one time." The claimant considered Stephanie's remarks to be harassing and concluded that the only way that the other housekeeper could have known that Ms. Dornath had complained about her, was if company management had informed the other worker of Ms. Dornath's complaint. On the same

day, July 22, 2011, "Stephanie" and the claimant had been called to a meeting where they had been instructed to work cooperatively.

On Monday, July 25, 2011, the facilities administrator, Julie Thorson, met with Ms. Dornath about the incident that occurred on July 22 and about allegations that Ms. Dornath had made in general about the care that was being provided to residents at the facility. Sensing that the claimant was very upset, Ms. Thorson instructed the claimant to take the remaining three scheduled working days of the week off with pay while the facility's management investigated Ms. Dornath's allegations. The claimant was requested to provide written documentation about complaints but was unwilling to provide that documentation to the administrator. Ms. Thorson emphasized to the claimant that no retaliation towards the claimant would be tolerated.

Ms. Dornath was not scheduled to work on Wednesday, July 27, 2011. The claimant submitted her resignation from employment although the investigation had not been completed.

REASONING AND CONCLUSIONS OF LAW:

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

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.

In this matter the evidence establishes that Ms. Dornath had accumulated numerous concerns about the work activities of other employees and the treatment of residents. The claimant had gone to her employer in the past but based upon the non specific nature of Ms. Dornath's complaints, the employer had concluded that her concerns were largely unjustified. On July 15, 2011, Ms. Dornath had complained about another housekeeper, specifically naming the housekeeper and provided a more specific complaint about the employee's conduct and its resulting effect on the resident's privacy rights. Later when the specified housekeeping employee commented to Ms. Dornath about her complaint, the claimant immediately concluded that company management must have told the other employee who had complained as well as the nature of the complaint. When Ms. Dornath brought her concerns about the dissemination of a confidential complaint to the attention of management, management acted reasonably by meeting with the two housekeeping employees to urge them to work cooperatively and by specifically meeting with Ms. Dornath the following Monday, July 25, 2011, to give the claimant an opportunity to explain her complaints further. Although asked to provide specific documentation that the claimant maintained she had, Ms. Dornath was unwilling to provide that information to the employer, however.

During the meeting the facilities manager specifically reassured the claimant that no retaliation would be allowed to take place against the claimant because of her complaints. The administrator further promised to investigate the claimant's complaint giving the claimant the remaining three scheduled work days of the week off with pay so that the matter could be resolved upon the claimant's return to work the following Monday, August 1, 2011.

Prior to the completion of the employer's investigation, Ms. Dornath chose to leave her employment in anticipation that her complaints might not be resolved and in anticipation that employees might be able to conclude that the claimant had been the one to complain about them.

The question before the administrative law judge in this case is not whether Ms. Dornath had good cause reasons from her own personal viewpoint for leaving but whether they were good cause reasons attributable to the employer. The administrative law judge concludes that the evidence does not establish that Friendship Haven management intentionally disseminated confidential information about Ms. Dornath's complaint about the other co-worker. It is likely that a disciplinary action or reminder given to the other worker may have in and of itself caused the other housekeeper to conclude that Ms. Dornath had complained. The claimant also did not allow the employer sufficient time to complete its investigation and take any remedial action that may be necessary before deciding to quit her job. The evidence in the record establishes that the employer planned to take steps to address areas of complaint that Ms. Dornath had brought to their attention but that the claimant did not remain employed to see if adequate changes had taken place but instead quit employment during the employer's investigation of her allegations.

For the above-stated reasons, the administrative law judge concludes that the claimant has not sustained her burden of proof in showing good cause for leaving attributable to the employer. Benefits are withheld.

DECISION:

The representative's decision dated August 16, 2011, reference 01, is affirmed. The claimant quit 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 meets all other eligibility requirements of Iowa law.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs