

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KAREN L SMITH
Claimant

APPEAL NO. 11A-UI-09492-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TRINITY REGIONAL MEDICAL CENTER
Employer

OC: 06/05/11
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

Karen L. Smith (claimant) appealed a representative's July 13, 2011 decision (reference 03) that concluded she was not qualified to receive unemployment insurance benefits after a separation from employment from Trinity Regional Medical Center (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on August 11, 2011. The claimant received the hearing notice and responded by calling the Appeals Section on August 9, 2011; she indicated that she would be available at the scheduled time for the hearing at a specified telephone number. When the administrative law judge called that number at the scheduled time for the hearing, the claimant did answer. Contrary to the recommendation on the hearing notice instructions, the claimant's phone was a cell phone. Shortly after the hearing was convened, the claimant's connection was lost or disconnected. The administrative law judge attempted to recontact the claimant, but she did not answer her phone and did not recontact the Appeals Section; therefore, the claimant did not participate in the hearing. Ted Vaughn appeared on the employer's behalf and presented testimony from one other witness, Jonette Terranova. One other witness, Terry Daly, was available on behalf of the employer but did not testify. Based on the evidence, the arguments of the employer, 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 May 16, 2011. She went through a day of paid orientation on that date. She was scheduled to begin her regular work schedule on June 1 after having given two weeks' notice to her prior employer. Her regular work schedule would have been to work about two shifts per week on a part-time basis serving food to patients as part of the employer's nutritional services department. She was scheduled to work a 6:45 a.m.-to-3:15 p.m. schedule on both June 1 and June 2. She did report and worked the scheduled shift on June 1. The employer was unaware of any problems, issues, or concerns that would have arisen with the claimant that day, and at the end of the day she had indicated to her supervisor she would see her the next day.

The claimant did not report for work as scheduled on June 2. Ms. Terranova, the supervisor that day, then called the claimant to learn if she was coming for work. The claimant advised Ms. Terranova that she was not returning, that the job was not for her. She indicated that she had previously left a message for the supervisor with whom she had worked on June 1; Ms. Terranova later spoke with that supervisor and confirmed that the claimant had called in and left a message indicating that she was quitting, that the

job was not what she had expected it to be. The employer was not aware of what the claimant's particular concerns might have been; her job had remained available for her had she chosen to continue the employment.

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.

Rule 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 and an action to carry out that intent. Bartelt v. Employment Appeal Board, 494 N.W.2d 684 (Iowa 1993); Wills v. Employment Appeal Board, 447 N.W.2d 137, 138 (Iowa 1989). 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. The law presumes a claimant has voluntarily quit with good cause when she quits because of a substantial change in the contract of hire. 871 IAC 24.26(1). The claimant has not established that there was a substantial change in the employment arrangement. 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 is not good cause. 871 IAC 24.25(21). 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). The claimant has not satisfied her burden. Benefits are denied.

DECISION:

The representative's July 13, 2011 decision (reference 03) is affirmed. The claimant voluntarily left her employment without good cause attributable to the employer. As of June 2, 2011, 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/kjw