

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TERRLYN R RIBBEY
Claimant

APPEAL NO. 09A-UI-11881-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ASSISTED LIVING CONCEPTS INC
Employer

**Original Claim: 07/12/09
Claimant: Respondent (1)**

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

Assisted Living Concepts, Inc. (employer) appealed a representative's August 7, 2009 decision (reference 01) that concluded Terrlyn R. Ribbey (claimant) was qualified to receive unemployment insurance benefits after a separation from employment. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on September 2, 2009. The claimant participated in the hearing. Cindy Gregory 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 November 11, 1999. Since about 2003, she worked full-time as a lead personal service attendant in the employer's Clarinda, Iowa, assisted living facility. Her last day of work was March 30, 2009. She gave written notice of resignation on March 17 indicating that March 30 would be her last date. She cited increased stress and negative effects on her health due to the workplace. Significant in her decision was the fact that as of February 18 the employer had demoted her, removing her lead classification. This resulted in a drop in pay from \$11.07 to \$9.18, as well as requiring her to work every other weekend. The claimant had begun to experience increased blood pressure and an increase in seizures. The claimant's doctor had recommended that she make a choice regarding continuing her employment due to the increased stress. The employer did not attempt to discover or address any of the concerns related to the claimant's decision to resign during the two weeks between her notice and her last day of work.

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. A

substantial change in contract of hire is recognized as grounds that are good cause for quitting that is attributable to the employer. 871 IAC 24.26(1). "Good cause attributable to the employer" does not require fault, negligence, wrongdoing or bad faith by the employer, but may be attributable to the employment itself. Dehmel v. Employment Appeal Board, 433 N.W.2d 700 (Iowa 1988); Raffety v. Iowa Employment Security Commission, 76 N.W.2d 787 (Iowa 1956).

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). In Dehmel v. Employment Appeal Board, 433 N.W.2d 700 (Iowa 1988), the Iowa Supreme Court ruled that a 25 percent to 35 percent reduction in wage was, as a matter of law, a substantial change in the contract of hire. The Court in Dehmel cited cases from other jurisdictions that had held wage reductions ranging from 15 percent to 26 percent were substantial. Id. at 703. Based on the reasoning in Dehmel, a 17 percent change in the claimant's pay is substantial for purposes of unemployment insurance benefits. (The difference between \$11.07 an hour and \$9.18 an hour is about 17 percent.)

To the extent that the claimant's quitting was due to the effects of stress on her life, leaving employment because of illness, injury, or pregnancy upon the advice of a licensed and practicing physician with notice to the employer is recognized as grounds that are good cause for quitting. Iowa Code § 96.5-1-d. The employer was unable or unwilling to provide reasonable accommodation in order to retain the claimant's employment.

While the employer may have had a good business reason for demoting the claimant and not seeking to address her concerns to retain her employment, the claimant voluntarily quit for good cause attributable to the employer. Benefits are allowed, if the claimant is otherwise eligible.

DECISION:

The representative's August 7, 2009 decision (reference 01) is affirmed. The claimant voluntarily quit for good cause attributable to the employer. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/kjw