

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was employed as a full-time house counselor in a residential setting, providing care and guidance to adults with mental retardation from the date of October 26, 2004 through August 21, 2005. She voluntarily quit her employment because of issues with her co-workers. The claimant felt her co-workers were harassing her because she believes one of them called the Iowa Department of Human Services to report potential abuse to the claimant and her child by her husband. The claimant called the employer on August 19, 2005 and reported that she was not comfortable at work because of her co-workers' treatment. No other issues were brought up in that conversation. The claimant quit that following Sunday night, on August 21, 2005.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the reasons for the claimant's separation from employment qualify her to receive unemployment insurance benefits.

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(6) provides:

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:

- (6) The claimant left as a result of an inability to work with other employees.

The claimant quit her employment because she had difficulty working with her co-workers since she believes one of them reported that the claimant's husband was abusing her. "Good cause" for leaving employment must be that which is reasonable to the average person, not to the overly sensitive individual or the claimant in particular. Uniweld Products v. Industrial Relations Commission, 277 So.2d 827 (Florida App. 1973). The evidence provided by the claimant as to how she was being treated, falls far short of harassment and appears that her co-workers were simply concerned about her welfare.

The claimant testified that she also quit because of sexual harassment by a resident but the evidence does not support that contention. The resident in question is an adult male in his forties, with mild to moderate mental retardation and autistic tendencies. He is an elective mute who has an aversion to tactile stimulation; he does not like people touching him. He has lived in

the facility for 20 years and it appears that a lot of his actions are the result of internal factors. On April 7, 2005 after getting a haircut, the resident swatted the claimant with a magazine on her rear end. The claimant told him not to do it again and there were no further incidents of that kind. The claimant stated that she was uncomfortable because the resident touched her neck and sat too close to her but it was her responsibility to help the resident establish appropriate boundaries. She never documented any problems or issues with this resident as she was required to do if there were problems. Furthermore, the claimant contacted the executive director at home on August 19, 2005 to discuss problems at work and never mentioned any issues about a resident. If that were a reason prompting her to quit, she would have undoubtedly mentioned it in that conversation.

It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify her. Iowa Code § 96.6-2. The claimant has not satisfied that burden and benefits are denied.

DECISION:

The unemployment insurance decision dated September 12, 2005, reference 01, is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until she has worked in and has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

sdb/pjs