

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TABITHA A GONNERMAN
Claimant

APPEAL NO. 15A-UI-08699-TN-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

HAWKEYE HOME OFFICE LLC
Employer

OC: 06/07/15
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit
Section 96.6-2 – Timeliness of Appeal

STATEMENT OF THE CASE:

Tabitha Gonnerman filed an appeal from a representative's decision dated June 24, 2015, reference 01, which denied unemployment insurance benefits finding that the claimant voluntarily quit work on June 11, 2015, for personal reasons. After due notice was provided, a telephone hearing was held on August 25, 2015. Ms. Gonnerman participated. The employer participated by Ms. Dawn Rodish, Director of Human Resources and Ms. Sandy Fergason, Director of Operations.

Ms. Gonnerman's appeal from the June 24, 2015, reference 01, decision was due to be postmarked or received by the Iowa Workforce Appeals Section by July 4, 2015. Due to an apparent systems error, the appeal that Ms. Gonnerman filed online on Wednesday, July 1, 2015 at 5:05 p.m. was not recorded in the system, although Ms. Gonnerman received a confirmation that the appeal had been successfully filed. Claimant was later reassured by a workforce development employee that the appeal had been filed. After waiting a period of time, Ms. Gonnerman made further inquiries and discovered that the appeal that she had previously filed had not been successfully transmitted to the Appeals Section. Ms. Gonnerman promptly re-appealed the decision. Because the claimant attempted to file her appeal timely and had received a confirmation that it had been successfully filed, the administrative law judge concludes the claimant's appeal is considered timely.

FINDINGS OF FACT:

Tabitha Gonnerman began employment with the captioned employer d/b/a Carroll Health Center on May 13, 2013. Ms. Gonnerman resigned without advanced notice at approximately 1:00 p.m. on June 11, 2015. Ms. Gonnerman was employed as the facility's full-time administrator and was paid by salary. Claimant's immediate supervisor was Ms. Sandy Fergason, Director of Operations.

Ms. Gonnerman made a decision to leave her employment when she anticipated that she might subsequently be discharged because management had expressed some dissatisfaction with

Ms. Gonnerman's management of the facility and the supervision of employees. During the week that Ms. Gonnerman left her employment, the operation of the facility was being reviewed by Ms. Ferguson along with two nurse consultants. During that week, two employees had been discharged by Ms. Ferguson and Ms. Gonnerman had been requested to prepare a plan to improve her performance after Ms. Ferguson had pointed out deficiencies in Ms. Gonnerman's work as an administrator.

Ms. Gonnerman had disagreed with some decisions that had been made by upper management in the past and was concerned that Ms. Ferguson's visit to the facility with the two nurse consultants was a sign of lack of support by upper management for Ms. Gonnerman to continue in the position of administrator.

It appears that Ms. Gonnerman and Ms. Ferguson discussed a number of employment issues, the performance of other employees and Ms. Gonnerman's performance and the employer's expectations. At one juncture Ms. Ferguson suggested that the claimant might consider taking time off work to re-evaluate her role as an administrator at the facility, to collect her thoughts and to decide whether she was fully committed to her job and the changes that the Director of Operations believed needed to be made. After considering the events and Ms. Ferguson's statements for a period, Ms. Gonnerman then agreed to create her own performance improvement plan and stated that she was, in fact, 100% committed to the facility and its management. Ms. Ferguson left the facility that morning with the belief that Ms. Gonnerman was committed to improving her performance and would submit a performance improvement plan with completed to Ms. Ferguson.

A short time later, Ms. Gonnerman was informed that someone had filed a complaint with the Department of Inspections and Appeals and that the Department of Inspections and Appeals would be investigating the complaint. The claimant called Ms. Ferguson to inform her of the new complaint and was asked by Ms. Ferguson to provide information to her about it. Ms. Gonnerman then left the facility at 1:00 p.m. that day without any notice.

Ms. Gonnerman was aware that the company had a policy of allowing employees to go up the chain of command if they were dissatisfied with decisions being made by someone in a supervisory position over the employee and the company provided a "hot line" for that purpose. Ms. Gonnerman declined the opportunity to go up the chain of command with any concerns or issues before leaving her employment. It appears that Ms. Gonnerman did not believe that it would help.

At the time Ms. Gonnerman left her employment, continuing work was available to her, although she believed that she would be discharged in the future.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes that the claimant voluntarily left her employment without good cause attributable to the employer.

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.

Iowa Admin. Code r. 871-24.25(22) 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:

(22) The claimant left because of a personality conflict with the supervisor.

Iowa Admin. Code r. 871-24.25(28) 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:

(28) The claimant left after being reprimanded.

In general, a voluntarily quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer for whom the employee has separated. 871 IAC 24.25. Leaving because of unlawful, intolerable or detrimental working conditions would be good cause. 871 IAC 24.26(3), (4). Leaving because of dissatisfaction with the work environment is not good cause. 871 IAC 24.25(1). Leaving because of a personality conflict with a supervisor would not be good cause. 871 IAC 24.25(22). Leaving after receiving a reprimand that was reasonable and justified would not be good cause. 871 IAC 24.25(28).

Quits due to intolerable or detrimental working conditions are deemed to be for a good cause attributable to the employer, however, the test is whether a reasonable person would have quit under the circumstances. See Aalbers v. Iowa Department of Job Services, 431 N.W.2d 330 (Iowa 1988) and O'Brien v. Employment Appeal Board, 494 N.W.2d 660 (Iowa 1993).

In the case at hand, where management was implementing a number of changes at the facility where Ms. Gonnerman was employed as the administrator, two to three employees had been discharged by Ms. Ferguson and Ms. Gonnerman had discussed at length Ms. Gonnerman's performance and Ms. Gonnerman's commitment to the facility and changes being implemented by Ms. Ferguson. When Ms. Ferguson left the facility that morning, Ms. Gonnerman had expressed her intention to stay and her 100% commitment to the facility and management. Ms. Gonnerman had also agreed to create her own performance improvement plan. Later that morning, after Ms. Gonnerman had been informed by another source that the Department of Inspections and Appeals would be doing an investigation because of a new complaint, she informed Ms. Ferguson of the new issue via telephone and

then left her employment midday without providing any notice to Ms. Fergason or any other company management. The claimant chose not to use a hot line that was available to her. It appears that Ms. Gonnerman felt that the new complaint might add additional issues and might result in her termination from employment in the future. At the time Ms. Gonnerman chose to leave, work continued to be available to her with this employer.

While the claimant's decision to leave her employment was undoubtedly a sound decision from her personal viewpoint, the claimant's reasons for leaving were not attributable to her employer. The claimant had agreed to stay and attempt to improve her performance but subsequently made a personal decision to quit her employment. 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 the claimant is otherwise eligible.

DECISION:

The representative's decision dated June 24, 2015, reference 01, is affirmed. The 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

pjs/pjs