IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU

MARY K GEARY Claimant **MATURA ACTION CORP** Employer	**APPEAL 17A-UI-11367-LJ-T** **ADMINISTRATIVE LAW JUDGE DECISION** **OC: 05/28/17** **Claimant: Appellant (2)**

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant filed an appeal from the October 25, 2017 (reference 03) unemployment insurance decision that denied benefits based upon a determination that claimant separated from employment voluntarily and without good cause attributable to her employer. The parties were properly notified of the hearing. A telephone hearing was held on November 28, 2017. The claimant, Mary K. Geary, participated. The employer, Matura Action Corporation, did not register a telephone number at which to be reached and did not participate in the hearing.

ISSUE:

Did claimant voluntarily quit the employment with good cause attributable to employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full time, most recently as a Head Start teacher, from August 2016 until October 4, 2017, when she quit her employment. Claimant initially submitted a two-week notice on September 8, 2017, due to stressful working conditions. Claimant is a Type-1 diabetic, and she was not always able to regulate her insulin level as necessary due to her work. Additionally, the employer had high turnover and the classroom in which claimant worked was perpetually understaffed. Guidelines required that the classroom have at least one adult per every ten children, but this ratio was often not met. Claimant explained that the ratio exists to help keep both children and staff members safe.

When claimant submitted her two-week resignation, the employer asked her to stay and told her they would get her some assistance in her classroom. However, this assistance never came. Claimant continued to work in the classroom that was out of ratio, and the employer hired an assistant to help in another classroom but not in hers. Additionally, on October 4, the employer met with claimant and suggested demoting her to an assistant position once it hired another assistant to help in her classroom. However, claimant would have been required to provide at least ten hours of instruction because she would be the only employee in the classroom with a four-year degree.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant separated from employment with good cause attributable to the employer. Benefits are allowed, provided she is otherwise eligible.

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. 871-24.26(4) provides:

> Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:
>
> (4) The claimant left due to intolerable or detrimental working conditions.

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). "Good cause" for leaving employment must be that which is reasonable to the average person, not the overly sensitive individual or the claimant in particular. *Uniweld Products v. Indus. Relations Comm'n*, 277 So.2d 827 (Fla. Dist. Ct. App. 1973). A notice of an intent to quit had been required by *Cobb v. Emp't Appeal Bd.*, 506 N.W.2d 445, 447-78 (Iowa 1993), *Suluki v. Emp't Appeal Bd.*, 503 N.W.2d 402, 405 (Iowa 1993), and *Swanson v. Emp't Appeal Bd.*, 554 N.W.2d 294, 296 (Iowa Ct. App. 1996). Those cases required an employee to give an employer notice of intent to quit, thus giving the employer an opportunity to cure working conditions.

However, in 1995, the Iowa Administrative Code was amended to include an intent-to-quit requirement. The requirement was only added to rule 871-24.26(6)(b), the provision addressing work-related health problems. No intent-to-quit requirement was added to rule 871-24.26(4), the intolerable working conditions provision. Our supreme court recently concluded that, because the intent-to-quit requirement was added to rule 871-24.26(6)(b) but not 871-24.26(4), notice of intent to quit is not required for intolerable working conditions. *Hy-Vee, Inc. v. Emp't Appeal Bd.,* 710 N.W.2d 1 (Iowa 2005).

Here, claimant provided her employer with notice that she needed assistance in her classroom in order to meet the required ratio and ensure the safety of herself and the children. The employer promised her that it would hire assistance for her, but this never happened. Claimant has established that her work environment was detrimental to her, and she quit due to this detrimental working environment. Benefits are allowed, provided she is otherwise eligible.

DECISION:

The October 25, 2017 (reference 03) unemployment insurance decision is reversed. Claimant quit the employment with good cause attributable to the employer. Benefits are allowed, provided she is otherwise eligible. Any benefits claimed and withheld on this basis shall be paid.

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Elizabeth A. Johnson
Administrative Law Judge

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Decision Dated and Mailed

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