

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KRISTA P GODAT-BLASDELL

Claimant

APPEAL NO: 18A-UI-07790-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

REM IOWA COMMUNITY SERVICES INC

Employer

OC: 07/01/18

Claimant: Appellant (1)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the July 19, 2018, reference 01, decision that denied benefits. After due notice was issued, a telephone hearing was held before Administrative Law Judge Julie Elder on August 10, 2018. The claimant participated in the hearing with witness/Program Supervisor Jayme Boyd and Paralegal John Graupmann. Nicole Guzman, Program Director; Jaclyn Bentley, Program Director; and Jackie Boudreaux, Employer Representative; participated in the hearing on behalf of the employer. Claimant's Exhibits A through C were admitted into evidence.

ISSUE:

The issue is whether the claimant voluntarily left her employment with good cause attributable to the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time program supervisor for REM Iowa Community Services from March 1, 2016 to June 27, 2018. She voluntarily left her employment because she was dissatisfied with the job and the way a program director treated her June 27, 2018.

The employer serves clients with mental illness and brain injuries. On June 27, 2018, the claimant received a phone call from staff at the client home she oversaw asking if she had seen client "AO." The claimant asked why and the staff member stated the claimant needed to come to the house because AO was acting very different. The claimant asked how she was acting differently and the staff member related she was verbally aggressive and shoved her roommate and had a "20 mile stare." The staff member tried to get AO to take her medication and AO said, "Fuck you bitch" and walked out the door. The claimant arrived at the house a short time later and AO was outside. The claimant suggested AO take her medication and then they go for a ride and AO took her medication. AO, who was scheduled to reunite with her family in Nebraska, said she was not going to Nebraska and the claimant asked if she was scared. AO was acting "up and down" and the claimant wanted to take her to a hospital for a psychiatric evaluation. The claimant took AO to the employer's office to pick up her new insurance card

even though the card was not required for AO to receive treatment. Program Director Nicole Guzman was in the office and the claimant talked to her about taking AO for an evaluation and Ms. Guzman was "on the fence" about the claimant's plan but the claimant chose to take her anyway. At the hospital AO became aggressive and the claimant warned the hospital staff about her mental status. AO wanted to walk up and down the hall which the emergency room does not allow and when a security guard tried to tell AO that she "went off on him" and shoved a nurse. She grabbed the claimant's plastic cup and threw it against the wall. The security guard told the claimant if she could not control AO they would need to leave and the claimant stated that is why they were there but they did leave. Once they were back in the car, the claimant drove back to the office and told a staff member to tell Ms. Guzman what happened. The claimant then drove around with AO for a while before calling the client home and asking the staff member to take the other two clients out for ice cream so no one would be there when the claimant returned with AO. They went in the house and AO asked the claimant to sit in her room and then took a shower. Once she got out of the shower she yelled and pushed the claimant asking why she was in her room. The claimant was able to calm her and decided to take her to another hospital that was approximately 25 minutes away. The claimant stopped to get gas and AO got out of the car and did not want to get back in the car. The claimant called Ms. Guzman who also spoke to AO and AO did return to the car. On the way to the hospital AO undid her seatbelt and opened the car door. The claimant held her in place by holding the seatbelt in the correct position until she could stop the car at which time AO exited the vehicle and the claimant could not stop her because staff is not allowed to restrain clients. The claimant followed AO in her car while AO called her names and said she was not going to the hospital. The claimant said, "Why don't we go to DeWitt and get tacos," and AO got back in the car but soon after undid her seatbelt again and tried to jump out of the car. The claimant followed her in her car and called Ms. Guzman and asked if the van with a divider between the back passengers and the driver was available but Ms. Guzman told her it was not because it was in Iowa City. Ms. Guzman told the claimant to try to put AO in the back seat where there were child locks but the claimant feared she would attack her from behind and did not want to do that. Ms. Guzman told the claimant to get AO back in the car. Soon after AO got back in the car and they drove approximately two miles before AO got out again and started walking across the highway. The claimant was right next to her and grabbed her wrist and AO slammed her hand into the side of the car. The claimant called the office and spoke to Area Director Angie Thompson who stated it was too late for a court committal and she would call a mental health center. AO had an appointment at 4:00 p.m. with the mental health center and it was 2:30 p.m. at this time. Soon after that, AO got out of the car again and the claimant lost her. The claimant called the office and Ms. Guzman instructed the claimant to find her. The claimant drove around for one hour without locating AO and then Ms. Guzman instructed her to call the police. The claimant returned to the office and Ms. Guzman asked what she was doing there. The claimant went in the conference room and got a laptop and worked on the incident report, which did not need to be done at that time, and called the police. Ms. Guzman and other members of management were preparing to go out to look for AO and trying to call her. Ms. Guzman told the claimant twice they needed to go. As several employees were looking for AO, she finally answered her phone but would not state where she was located. She had a fingernail file and was threatening to hurt herself. The employer wanted AO signed out from services because then the employer is not responsible for her. During the last hour of the search the staff member from the claimant's client house called because another client was running around naked and hitting other people. The claimant went home to work on the incident report and decided instead to voluntarily quit her job. She then notified Ms. Guzman she was quitting her job with the employer.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes 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, regardless of the source of the individual's wage credits:

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.

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. 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). The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code section 96.6-2.

The employer has the right to allocate its personnel in accordance with its needs and available resources. *Brandl v. IDJS*, (Unpublished, Iowa App. 1986). Claimant's resignation seven months after substantial change in the contract of hire was a disqualifiable event because the claimant was held to have acquiesced in the changes. *Olson v. EAB*, 460 N.W.2d 865 (Iowa App. 1990).

The claimant was frustrated because the employer increased the staff to client ratio, which is not mandated by state law, in April 2018 when the employer was forced to do so due to insurance and program cuts. Obviously it would have been ideal to have more staff to clients but that was not realistic under the financial circumstances the employer was facing. The claimant worked under the new ratio for nearly three months. Because she did so without quitting earlier, the claimant is held to have acquiesced to the change. While the claimant's dissatisfaction and weariness about the staffing is understandable, it does not constitute a substantial change in her contract of hire or good cause attributable to the employer for her leaving.

Iowa Admin. Code r. 871-24.25(21) 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:

(21) The claimant left because of dissatisfaction with the work environment.

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.

The claimant also took issue with Ms. Guzman's treatment of her, most notably on June 27, 2018, and with regard to the staffing, stating effectively that it had to be Ms. Guzman's way. Ms. Guzman is a management employee and is not bound to agree with the claimant's opinions on staffing or other situations. June 27, 2018, was a stressful day for the claimant and for Ms. Guzman as well. While Ms. Guzman might have exhibited more patience with the claimant, she was concerned about finding AO, which was a time sensitive matter. The claimant has not demonstrated that Ms. Guzman's treatment of her rose to the level of unlawful, intolerable, or detrimental working conditions.

Under these circumstances, the administrative law judge must conclude the claimant has not met her burden of proving that her leaving was for good cause attributable to the employer as those terms are defined by Iowa law. Therefore, benefits must be denied.

DECISION:

The July 19, 2018, reference 01, decision is affirmed. The claimant voluntarily left her employment without good cause attributable to the employer. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/scn