

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CHANTEL L TEETER

Claimant

ABCM CORPORATION

Employer

APPEAL NO: 13A-UI-00199-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 12/09/12

Claimant: Respondent (5)

Section 96.5-1 – Voluntary Quit
871 IAC 24.26(21) – Quit or be Fired

STATEMENT OF THE CASE:

The employer appealed a department decision dated January 4, 2013, reference 01, that held it failed to establish misconduct in the discharge of the claimant on December 6, 2012, and benefits are allowed. A telephone hearing was held on February 7, 2013. The claimant participated. Tammy Shimon, Administrator; Mindy Dougherty, Nurse; and Tacee Leebens, C.N.A.; participated for the employer.

ISSUE:

Whether the claimant voluntarily quit with good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge having heard the witness testimony and having considered the evidence in the record, finds: The claimant worked for the employer as a full-time D.O.N. from March 22, 2010 to December 6, 2012. On November 26, 2012 a nursing assistant reported to claimant an incident that believed was resident dependent adult abuse. The assistant is a mandatory reporter for abuse but she believed claimant would handle it.

On December 1 there was a second incident of resident dependent adult abuse that was brought to the administration's attention. During an investigation, administration learned about the November 26 incident. When confronted by the employer it did not believe claimant was truthful about what occurred. Claimant acknowledges the nursing assistant report but she did not recognize that the information was potential abuse due to work distractions. Claimant chose to accept the employer option to resign in order that it would look better for future employment.

REASONING AND CONCLUSIONS OF LAW:

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 24.26(21) 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:

(21) The claimant was compelled to resign when given the choice of resigning or being discharged. This shall not be considered a voluntary leaving.

The administrative law judge concludes that the claimant voluntarily quit with good cause attributable to the employer on December 6, 2012. An option to resign (quit) or be fired is not considered a voluntarily leaving.

The department rule states that compelling an individual to quit employment with a choice to resign or be terminated becomes a voluntary quit with good cause once the election to resign is exercised. The rule recognizes that this option is not a voluntary leaving.

DECISION:

The department decision dated January 4, 2013, reference 01, is modified. The claimant voluntarily quit with good cause attributable to the employer on December 6, 2012. Benefits are allowed, provided the claimant is otherwise eligible.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/tll