

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DEBRA A GREIF
Claimant

APPEAL NO. 100-EUCU-01142-VS

**ADMINISTRATIVE LAW JUDGE
DECISION**

**APAC CUSTOMER SERVICES OF
IOWA LLC**
Employer

OC: 06/20/10
Claimant: Appellant (2)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated August 5, 2010, reference 03, which held claimant ineligible for unemployment insurance benefits. A hearing was originally held in this case on October 5, 2010, and a decision by the administrative law judge was issued on October 6, 2010. The employer filed an appeal with the Employment Appeal Board. The voice recording could not be located and therefore the case was remanded for a new hearing. There was some delay in setting the case for a new hearing due to a lengthy hospitalization of the claimant. After due notice, a hearing was scheduled for and held on April 29, 2011. Claimant participated. Employer participated by Turkessa Newsone, Human Resources Generalist. The record consists of the testimony of Debra Greif; the testimony of Turkessa Newsone; and Employer's Exhibit 1.

ISSUE:

Whether the claimant voluntarily left for good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witnesses and having considered all of the evidence in the record, makes the following findings of fact:

The employer is a call center located in Davenport, Iowa, that handles inbound calls for customer service. The claimant was a full-time customer service representative. She was hired on July 27, 2009. Her last day of work was June 11, 2010. She submitted her resignation on June 14, 2010.

The events that led to the claimant's resignation began in early May 2010, after the claimant was hospitalized for high blood pressure and cardiac problems. In order to manage her cardiac condition, the claimant's physician prescribed medication that had to be taken on a strict schedule. This meant that the claimant needed to take her break at a certain time in order to take her medication. The claimant brought her physician's written instructions to her employer and was told by her team leader that this accommodation could not be given. The claimant got sick at work and had to leave early. When she returned the next day, she was allowed to take

her break at 9:00 a.m., which is the time her physician had specified for taking the medication. She was allowed to take her break at 9:00 a.m. the next day as well. After that, the claimant was again scheduled for breaks at different times contrary to her physician's instructions. Her team leader, Clarissa, told the claimant that the employer was not going to make the accommodation.

The employer's needs changed and the claimant's schedule was changed to 10:00 a.m. to 7:00 p.m. The claimant had to take her medication at 5:00 p.m. She asked for her break at that time. She was given approval. The claimant went on break. When she came back, Clarissa yelled at her for taking a break without asking for permission. The claimant concluded that the employer was not taking her situation seriously and had no intention of granting her a break time as needed. She was concerned for health and elected to resign.

REASONING AND CONCLUSIONS OF LAW:

871 IAC 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.

The evidence in this case established that the claimant resigned her position only after her employer repeatedly refused to accommodate her need for a scheduled break at 9:00 a.m. in order to take medication prescribed by her physician. The claimant had a serious medical condition and had provided her employer with a physician's note that she needed to take this break at this time. All employees were permitted to take breaks and some employees took their breaks at 9:00 a.m. The claimant asked her team leader for an explanation and none was provided. Turkessa Newsone testified that she did not know that the claimant had asked for this accommodation but agreed that it was something that the employer could have reasonably accommodated.

The claimant's schedule was shifted to 10:00 a.m. to 7:00 p.m. and the claimant was granted a break at 5:00 p.m., which meant that she could take her medication as prescribed. However, when she returned from break, she was yelled at across the room for taking a break and not getting permission first. The claimant reasonably concluded that the employer had no intention of accommodating her situation. The claimant did not ask for additional breaks or longer breaks. She only asked for breaks at a certain time. The employer's failure to honor her request for this modest accommodation put her health at risk. Under these circumstances, the claimant's voluntary quit was for good cause attributable to the employer. Benefits are allowed if the claimant is otherwise eligible.

DECISION:

The decision of the representative dated August 5, 2010, reference 03, is reversed. Unemployment insurance benefits are allowed, provided claimant is otherwise eligible.

Vicki L. Seeck
Administrative Law Judge

Decision Dated and Mailed

vls/css