

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

SONYA L LANCASTER
218 – 4TH AVE W
ALBIA IA 52531

QUALITY HOME CARE
PROFESSIONALS INC
101 E MARION
KNOXVILLE IA 50138-2532

Appeal Number: 06A-UI-06748-DT
OC: 06/04/06 R: 03
Claimant: Appellant (1)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

Sonya L. Lancaster (claimant) appealed a representative's June 28, 2006 decision (reference 01) that concluded she was not qualified to receive unemployment insurance benefits after a separation from employment from Quality Home Care Professionals, Inc. (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on July 24, 2006. The claimant participated in the hearing. Donna Parker appeared on the employer's behalf and presented testimony from two other witnesses, Donna Krutsinger and Amber Carter. During the hearing, Claimant's Exhibits A through C and Employer's Exhibits One and Two were entered into evidence. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Was there a disqualifying separation from employment either through a voluntary quit without good cause attributable to the employer or through a discharge for misconduct?

FINDINGS OF FACT:

The claimant started working for the employer on May 2, 2005. She worked full time (minimum 32 hours per week) as staff nurse in the employer's home health care agency. Her last day of work was June 5, 2006.

The claimant had been allowed to set her own schedule so far as seeing patients and doing paperwork, but had typically been and out of the office between 9:30 a.m. and 3:00 p.m., also seeing patients on her way to and from work. Prior to May 9, the claimant had also been allowed to do some of her paperwork at home. On May 8, the employer had unsuccessfully attempted to reach the claimant when the claimant was supposed to be home working; as a result, as of May 9 she was informed that she could only do the necessary paperwork from the office, not home.

Approximately that same time, the employer reduced the claimant's patient load, as the claimant's case documentation had been unsatisfactory. The employer did not reduce the claimant's hours, but reduced the number of patients only, with the intent that the claimant utilized the additional time to improve the documentation in the case files.

On June 2, the claimant commented to Ms. Carter, a scheduler, that she was having difficulty in completing the necessary paperwork, including Medicare certifications, because she was not being allowed to work at home. Ms. Carter passed along this comment to Ms. Parker, a co-owner and the administrator. Ms. Parker then reviewed the claimant's documentation status. As a result, she called the claimant in for a meeting on June 5, 2006.

The meeting was approximately four hours long, from approximately 10:00 a.m. to approximately 2:00 p.m. Ms. Krutsinger, the assistant administrator, was present for at least a portion of the meeting. During the meeting, Ms. Parker further discussed her concerns regarding the claimant's documentation. About halfway through the discussion, they discussed the claimant's failure to take calls from the employer when she was at home. When the claimant stated that if she was home and knew it was the employer calling, she would not answer the phone, Ms. Parker responded, "if that's the case, you are terminated." However, the discussion continued for approximately two hours after that comment. The focus on the remainder of the meeting was still on how the claimant could continue her employment and improve on her documentation. Since Ms. Parker was going to be out of the office for the remainder of the week, they discussed how Ms. Krutsinger, who would be acting administrator, would be available for the claimant and would supervise the claimant's work.

The conclusion of the meeting was with the understanding that the claimant would not be expected to see any other patients the rest of the day because of the draining nature of the meeting and the desire to allow the claimant to return to her file documentation duties. However, the claimant did end up going out to see a patient on a first-aid basis at approximately 3:00 p.m., as she took the call and no one else was available. She then returned to the office and continued to work on documentation until approximately 5:45 p.m.

The claimant had previously requested vacation for June 6, 2006. However, she did come in for a brief time that day to deal with some documentation. On June 7, 2006, the claimant called in

and reported to the call nurse that she would not be in. She did not call or come in on June 8, 2006. On June 9, 2006 she came in later during the day and informed Ms. Krutsinger that she no longer worked there because Ms. Parker had fired her on June 2, even though Ms. Krutsinger responded that that was not her understanding or interpretation as to what had happened on June 2, 2006.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant voluntarily quit, and if so, whether it was for 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.

871 IAC 24.25 provides examples of situations which are considered to be voluntary quits without good cause, including:

871 IAC 24.25(27), (28), (33) 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 § 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 § 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:

(27) The claimant left rather than perform the assigned work as instructed.

(28) The claimant left after being reprimanded.

(33) The claimant left because such claimant felt that the job performance was not to the satisfaction of the employer; provided, the employer had not requested the claimant to leave and continued work was available.

While the employer had made a statement during the meeting on June 2, 2006 regarding termination, the employer did not follow through with a discharge of the claimant at that time, but proceeded to treat the claimant as an employee who was being subjected to disciplinary action short of discharge, with a goal toward maintaining the claimant's employment. By insisting that she had been discharged when the employer told her she had not been discharged, the separation occurred by the actions of the claimant, not the employer, and constitutes a voluntary quit. The claimant has the burden of proving that the voluntary quit was for a good cause that would not disqualify the claimant. Iowa Code § 96.6-2.

Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3), (4). Leaving because of a dissatisfaction with the work environment or a personality conflict with a supervisor is not good cause. 871 IAC 24.25(21), (23). Quitting

because a reprimand has been given is not good cause. 871 IAC 24.25(28). While the claimant's work situation was perhaps not ideal, she has not provided sufficient evidence to conclude that a reasonable person would find the employer's work environment detrimental or intolerable. O'Brien v. Employment Appeal Board, 494 N.W.2d 660 (Iowa 1993); Uniweld Products v. Industrial Relations Commission, 277 So.2d 827 (FL App. 1973).The claimant has not satisfied that burden. Benefits are denied.

DECISION:

The representative's June 28, 2006 decision (reference 01) is affirmed. The claimant voluntarily left her employment without good cause attributable to the employer. As of June 5, 2006, benefits are withheld until such time as the claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

ld/kjw