

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

TINA M SCHMITZ
909 NORTH ST
BURLINGTON IA 52601

BURLINGTON CARE CENTER INC
2610 S 5TH ST
BURLINGTON IA 52601

Appeal Number: 04A-UI-11568-SWT
OC: 10/03/04 R: 04
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 Quit

STATEMENT OF THE CASE:

The claimant, Tina Schmitz, appealed an unemployment insurance decision dated October 21, 2004, reference 01, that concluded she voluntarily quit employment without good cause attributable to the employer. A telephone hearing was held on November 22, 2004. The parties were properly notified about the hearing. Schmitz participated in the hearing. Cyndi Talbott participated in the hearing on behalf of the employer.

FINDINGS OF FACT:

Tina Schmitz worked full time for the employer as a certified nursing assistant (CNA) from September 16, 2003, to September 13, 2004. On September 13, Schmitz was working on the night shift. Another CNA had approached her and confronted her about a complaint she had made to the director of nursing about his job performance. Schmitz became upset because she believed the complaint she had made should have been kept confidential. In fact, no one in management had informed the CNA about the source of the complaint.

Schmitz then exhibited angry and disruptive behavior because of the hostile confrontation with the CNA and her mistaken belief that confidentiality had been breached. The charge nurse told Schmitz to shut up because she was sick of Schmitz's mouth. She instructed Schmitz to clock out and leave, which Schmitz proceeded to do.

The next day Schmitz discussed the situation with her supervisors. They suggested that she and the charge nurse meet and discuss their differences to try and resolve their problems. Later that day, Schmitz called the director of nursing. She told the director of nursing that she had a solution to the problems she was having, which was to transfer back to the dayshift. The director of nursing told Schmitz that she could not promise Schmitz that she could immediately return to the dayshift. Schmitz then told the director of nursing that if that was the case, that she was submitting her two-weeks notice. On September 15, 2004, Schmitz provided her two-weeks notice in writing and then stopped reporting to work.

Schmitz voluntarily quit employment because she mistakenly believed management had breached confidentiality by informing a coworker that she had complained about him and because of the charge nurse's treatment of her on September 13, 2004. She also quit because the employer would not honor her request to immediately transfer her to a different shift.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether Schmitz voluntarily quit employment without good cause attributable to the employer.

Under the unemployment insurance rules, a claimant who quits employment due to dissatisfaction with the work environment or a personality conflict with her supervisor is presumed to have voluntarily quit employment without good cause attributable to the employer. 871 IAC 24.25(21) and (22). On the other hand, a claimant who quits employment due to intolerable or detrimental working conditions is considered to have voluntarily quit employment with good cause and is eligible for benefits. 871 IAC 24.26(4). Finally, the Iowa Supreme Court in Cobb v. Employment Appeal Board, 506 N.W.2d 445 (Iowa 1993), established conditions that must be met to prove a quit was with good cause when an employee quits due to intolerable working conditions. First, the claimant must notify the employer of the unacceptable condition. Second, the claimant must notify the employer that she intends to quit if the condition is not corrected.

In this case, the evidence fails to establish Schmitz was subjected to intolerable working conditions. Her belief that someone in management had breached confidentiality was mistaken. The charge nurse was justified in sending Schmitz home based on her ill-tempered behavior. While language the charge nurse used toward Schmitz was insulting, Schmitz's supervisors acted reasonably in trying to get Schmitz and the charge nurse together to resolve their differences. Finally, it was unreasonable to expect that the employer would immediately transfer her to another shift.

In addition, Schmitz failed to meet the conditions set forth in the Cobb case for establishing good cause based on intolerable working condition, assuming such conditions had been proven. Schmitz gave notice of her intention to quit but then simply stopped reporting to work. She did not give the employer a reasonable opportunity to resolve her complains before leaving employment.

As a result, Schmitz's reasons for quitting fall into the category of quitting due to dissatisfaction with working conditions or due to a conflict with her supervisor, which are presumed under the law to be without good cause attributable to the employer. She is disqualified from receiving unemployment insurance benefits.

DECISION:

The unemployment insurance decision dated October 21, 2004, reference 01, is affirmed. Schmitz is disqualified from receiving unemployment insurance benefits until she has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

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