

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KATHY M OVERTON
Claimant

APPEAL NO. 07A-UI-01174-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ALEGENT HEALTH
Employer

OC: 01/07/07 R: 01
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Leaving
Section 96.3-7 – Recovery of Overpayment of Benefits

STATEMENT OF THE CASE:

Kathy M. Overton (claimant) appealed a representative's January 29, 2007 decision (reference 01) that concluded she was not qualified to receive unemployment insurance benefits after a separation from employment from Alegent Health (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on February 19, 2007. The claimant participated in the hearing. Lynn Corbeil of TALX Employer Services, former known as Johnson & Associates, appeared on the employer's behalf and presented testimony from three witnesses, Loretta Reed, Susan Howell, and Jeff Showers. One other witness, Claudia Peterson, was available on behalf of the employer but did not testify. 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:

Did the claimant voluntarily quit for a good cause attributable to the employer?

FINDINGS OF FACT:

The claimant started working for the employer on June 8, 1997. She worked full time as a housekeeper in the employer's Council Bluffs, Iowa hospital, most recently on a 2:30 p.m.-to-11:00 p.m., Monday-through-Friday schedule. Her last day of work was January 4, 2007. She voluntarily quit on January 5, 2007. Her reason for quitting was not liking how her supervisor, Ms. Howell, had said something to her on the evening of January 4.

On January 3, Ms. Howell's counterpart, Mr. Showers, had a meeting with staff, including the claimant, reminding them about the employer's policies on smoking and lunch breaks. Included in the reminder was that while the employees could clock out and leave the premises to go and pick up food, and during that time could smoke in their vehicles, when they returned they could eat their lunches brought into the building if there was still time, but they must go to work upon clocking back in from their 30 minute break, not clock in and then eat their meals. On January 4 the claimant had clocked out for lunch at 5:08 p.m. and had gone out of the building. She returned and clocked back in at 5:42 p.m. She then began to move toward going to eat her lunch. Ms. Howell saw the claimant and told her she needed to go to work, not eat her lunch, as she had already had her lunch break.

The claimant was not happy, but did return to her work duties. She felt Ms. Howell had been excessively grumpy in how she told the claimant she needed to return to work, and she felt it was unfair she could not eat her lunch when two others who had left for lunch at the same time as she were sitting and eating their

lunches. However, those persons had returned before the claimant and had not clocked back in before beginning to eat their lunches. There had not been any other problems, and the claimant's job was not in any jeopardy. Due to her displeasure about what had happened, the claimant decided to quit.

REASONING AND CONCLUSIONS OF LAW:

If the claimant voluntarily quit her employment, she is not eligible for unemployment insurance benefits unless it was for good cause attributable to the employer.

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 24.25 provides that, 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. A voluntary leaving of employment requires an intention to terminate the employment relationship. Bartelt v. Employment Appeal Board, 494 N.W.2d 684 (Iowa 1993). The claimant did express or exhibit the intent to cease working for the employer and did act to carry it out. The claimant would be disqualified for unemployment insurance benefits unless she voluntarily quit for good cause.

The claimant has the burden of proving that the voluntary quit was for a good cause that would not disqualify her. 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). The claimant 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 her burden. Benefits are denied.

DECISION:

The representative's January 29, 2007 decision (reference 01) is affirmed. The claimant voluntarily left her employment without good cause attributable to the employer. As of January 5, 2007, 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.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/kjw