

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**LOIS A HOWES**  
Claimant

**APPEAL NO. 08A-UI-10227-HT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**MEDICAL ASSOCIATES**  
Employer

**OC: 09/28/08 R: 04  
Claimant: Appellant (1)**

Section 96.5(1) – Quit

**STATEMENT OF THE CASE:**

The claimant, Lois Howes, filed an appeal from a decision dated October 22, 2008, reference 01. The decision disqualified her from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on December 8, 2008. The claimant participated on her own behalf. The employer, Medical Associates, participated by Human Resources Director Michelle Waltz, Chief Operations Officer Abe Chako, Data Processing Supervisor Patricia Thomas, and was represented by Wylie Pillers.

**ISSUE:**

The issue is whether the claimant quit work with good cause attributable to the employer.

**FINDINGS OF FACT:**

Lois Howes was employed by Medical Associates from August 28, 2000 until September 29, 2008 as a full-time data processing clerk. Throughout the entire course of her employment Ms. Howes worked in the same office with usually six to seven other clerks, entering information from written form into the computer. The clerks talked to each other and carried on conversations during work hours which was allowed as they were assessed based on the volume and quality of their work.

Ms. Howes found no objection to this for most of her employment but in the past six to twelve months she began to wear headphones, listening to the radio or music as the conversation bothered her. She might have mentioned something in passing to Data Processing Supervisor Patricia Thomas but made no actual formal complaint until September 26, 2008. On that day the claimant was upset because she had made some errors in her work because the particular job she was doing was not as familiar to her as her usual work. As she was leaving the room one employee made some comment to another that Ms. Howes might not have made the mistake if she had not had such a bad attitude that day.

After overhearing this Ms. Howes went to Ms. Thomas to formally complain about the noise level in the room. She asked to be transferred to another department or be allowed to work in another room separate from the other clerks. Ms. Thomas said she would have to confer with

IT Manager Kevin Hansen. The claimant did not come in to work September 25 or 26, 2008, calling in absent. On the second day Ms. Thomas called her and said she should meet with Chief Operations Officer Abe Chako and Human Resources Director Michelle Waltz on Monday, September 29, 2008, to discuss her concerns, and that she need not punch in before going to the meeting.

At the meeting Ms. Waltz and Mr. Chako asked her about her concerns and she said all the talking was too loud, although the subject matter was not offensive. She admitted she talked to the other clerks herself during the work day, but usually had her headphones on. Mr. Chako asked her what she would do about the problem and what she wanted him to do and only said he should make others stop talking so loud. She was asked what she thought she could do to some things about herself to help deal with the problem and she said there was nothing.

Mr. Chako and Ms. Waltz said they would be conferring with the other clerks to find out whether anyone else had the same complaint and what could be done about the problem. There was no other job to which she could be transferred and no other office space available for her to have her own office. At that point Ms. Howes believed she was going to be fired and told them she "could not take it anymore" and that she "did not need to bring the stress home with her" anymore. She said she was quitting and Ms. Waltz asked if she was quitting for the day or quitting her job permanently. The claimant said she was quitting her job and left.

#### **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 24.25(21) 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 section 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 section 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:

- (21) The claimant left because of dissatisfaction with the work environment.

The claimant quit because she no longer wanted to work in an environment where people talked while doing their work. It does not appear this situation had changed significantly in the eight years Ms. Howes had been working there, but for some reason she became more sensitive to it in the last few months of her employment. The first time she formally brought her complaint to the supervisor was the last day she worked, and then quit during a meeting being held to help resolve the situation.

There is no evidence the claimant was going to be fired as she asserted. Apparently she felt the employer's desire to interview others and get more thorough information was tantamount to ignoring her concerns, but this is not the case. The employer must be allowed a reasonable period of time to thoroughly investigate the problem and come up with a plan to resolve it. Ms. Howes was unwilling to allow Medical Associates time to do this and quit. The record establishes she did not have good cause attributable to the employer to quit and she is disqualified.

**DECISION:**

The representative's decision of October 22, 2008, reference 01, is affirmed. Lois Howes is disqualified and benefits are withheld until she has earned ten times her weekly benefit amount, provided she is otherwise eligible.

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Bonny G. Hendricksmeier  
Administrative Law Judge

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Decision Dated and Mailed

bgh/css