

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CHARLOTTE A GREENBECK
Claimant

APPEAL NO. 07A-UI-04913-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

CARE INITIATIVES
Employer

OC: 04-22-07 R: 03
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the May 9, 2007, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on May 31, 2007. The claimant did participate. The employer did participate through Heather Rehmer, Administrator and Lou Ann Pearey, Director of Nursing.

ISSUE:

Did the claimant voluntarily quit her employment with good cause attributable to the employer?

FINDINGS OF FACT:

Having reviewed the testimony and all of the evidence in the record, the administrative law judge finds: Claimant was employed as a LPN full time beginning November 28, 2006 through April 22, 2007, when she voluntarily quit.

The claimant quit because she was unhappy with the staffing levels, was unhappy with the subordinates who worked underneath her and generally felt that the job was too physically tasking for her.

The claimant was not promised that there would be any particular level of staffing; either of nurses, CNA's or CMA's maintained on the floors at any one time. When the claimant complained about the number of staff, she was told that the employer was trying to hire more CNA's to assist the nurses but she was never promised that the employer would hire additional nurses to assist her on the floor.

When the claimant complained about the CNA's or CMA's she supervised not doing what she told them to do; she was told that it was her responsibility to write up the CNA's. The claimant had the ability to stop the employees from disobeying her by merely writing them up. On one occasion the claimant wrote up a CNA for insubordination and the discipline was upheld by the employer. There is no evidence that the claimant could not have controlled the employees who were being disrespectful or disobedient by using the employer's disciplinary methods. Because

the claimant was able to on at least one occasion write up an employee, she had the ability to do so on other occasions if she so chose.

The claimant never asked the employer for any medical accommodation nor did any physician ever tell her to quit her job.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left her employment without 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(6) 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:

- (6) The claimant left as a result of an inability to work with other employees.

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code section 96.6(2). An individual who voluntarily leaves their employment must first give notice to the employer of the reasons for quitting in order to give the employer an opportunity to address or resolve the complaint. *Cobb v. Employment Appeal Bd.*, 506 N.W.2d 445 (Iowa 1993).

The claimant quit because she was not happy with the staffing levels at the home. The employer has the right to allocate its personnel in accordance with its needs and available resources. The administrative law judge cannot conclude that the claimant was ever promised working conditions that included any particular number of staff. While the claimant may have wanted more help or employees, the evidence does show that the amount of employees increased while she was employed; perhaps not as much as the claimant would have liked, but the staffing decisions are up to the employer.

The claimant had the ability to deal with any employee that worked for her that was disobedient by writing that employee up. She chose not to write up offending employees, despite being told by the employer that they would stand behind the nurses writing up offending employees. The one occasion when the claimant did write up an employee, the employer did not negate or ignore the write up. The claimant's inability to work with the CNA's is not good cause attributable to the employer for quitting.

Lastly, the claimant has not established that any medical professional told her to quit or that she asked for and was denied any needed medical accommodations by the employer. While the claimant may have had good personal reasons for quitting, the reasons established at hearing were not good cause reasons attributable to the employer for leaving the employment. Benefits are denied.

DECISION:

The May 9, 2007, reference 01, decision is affirmed. The claimant voluntarily left her employment without good cause attributable to the employer. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/css