

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DENISE A DAO**  
Claimant

**APPEAL NO: 12A-UI-04719-DT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**HERITAGE OF IOWA FALLS INC**  
Employer

**OC: 03/11/12**  
**Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Leaving

**STATEMENT OF THE CASE:**

Denise A. Dao (claimant) appealed a representative's April 16, 2012 decision (reference 01) that concluded she was not qualified to receive unemployment insurance benefits after a separation from employment with Heritage of Iowa Falls, Inc. (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on May 16, 2012. The claimant participated in the hearing. John Henson of TALX Employer Services appeared on the employer's behalf and presented testimony from one witness, Julie Russell. Two other witnesses, Ellen Hinrichs and Dianne Klein, were 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?

**OUTCOME:**

Affirmed. Benefits denied.

**FINDINGS OF FACT:**

The claimant started working for the employer on June 27, 2011. She worked full time as a registered nurse and charge nurse in the employer's skilled nursing facility, primarily on the 2:00 p.m. to 10:00 p.m. shift. Her last day of work was March 7, 2012. She voluntarily quit after her shift that night.

The claimant had been given a counseling on December 29, 2011 which she felt was unwarranted and showed that the employer was against her. She further indicated that there had been a number of problems and deficiencies regarding personnel and supplies which were not addressed. However, each time the claimant reported that there was a lack of supplies, Russell was able to easily find the supplies in question; further, the other claims asserted by the claimant regarding personnel were not substantiated.

A number of the residents had been requesting that the claimant not administer their medications to them anymore, complaining that she was intimidating towards them. The claimant believed that a coworker with whom she did not get along was primarily responsible, that she had been turning the residents against her. The claimant had taken some time off in late February and had gone to her doctor; the claimant reported that the doctor diagnosed her with depression and anxiety, and advised her that he did not want her working in a “negative environment.” The claimant did not report this diagnosis or recommendation to the employer.

On March 7 the claimant learned that one of her favorite residents had also requested that the claimant no longer administer his medications. The claimant became very distraught and decided to resign. She finished her shift but wrote a note to the director of nursing, Russell, advising her she was quitting because “my doctor does not want me to be in a negative environment.”

#### **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 § 96.5-1. Rule 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 and an action to carry out that intent. *Bartelt v. Employment Appeal Board*, 494 N.W.2d 684 (Iowa 1993); *Wills v. Employment Appeal Board*, 447 N.W.2d 137, 138 (Iowa 1989). 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 coworker is not good cause. 871 IAC 24.25(21), (6). 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). Rather, her complaints do not surpass the ordinary tribulations of the workplace.

Under some circumstances, a quit for medical or health reasons is attributable to the employer. Iowa Code § 96.5-1. Where factors and circumstances directly connected with the employment caused or aggravated an employee’s illness, injury, allergy, or disease can be good cause for quitting attributable to the employer. 871 IAC 24.26(6)b. However, in order for this good cause to be found, prior to quitting the employee must present competent evidence showing adequate health reasons to justify ending the employment, and before quitting must have informed the employer of the work-related health problem and inform the employer that the employee intends to quit unless the problem is corrected or the employee is reasonably accommodated. 871 IAC 24.26(6)b.

The claimant has not presented competent evidence showing adequate health reasons to justify her quitting. Even accepting the claimant’s verbal testimony as to the recommendations made

by her doctor, before quitting she did not inform the employer of the work-related health problem and inform the employer that she intended to quit unless the problem was corrected or reasonably accommodated. Accordingly, the separation is without good cause attributable to the employer and benefits must be denied.

**DECISION:**

The representative's April 16, 2012 decision (reference 01) is affirmed. The claimant voluntarily left her employment without good cause attributable to the employer. As of March 7, 2012, 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.

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Lynette A. F. Donner  
Administrative Law Judge

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Decision Dated and Mailed

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