

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CYNTHIA A LUKAVSKY
Claimant

APPEAL NO. 09A-UI-15193-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MERCY HOSPITAL
Employer

OC: 09/13/09
Claimant: Appellant (2)

Section 96.5(1) – Quit

STATEMENT OF THE CASE:

The claimant, Cynthia Lukavsky, filed an appeal from a decision dated September 29, 2009, reference 01. The decision disqualified her from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on November 10, 2009. The claimant participated on her own behalf. The employer, Mercy Hospital, participated by Employee Relations Coordinator Cheryl Knutson, Nurse Supervisor Julia Krebs and Nurse Manager Barb Schaufenbuel.

ISSUE:

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

FINDINGS OF FACT:

Cynthia Lukavsky was employed by Mercy from May 20, 2008 until August 31, 2009 as a full-time registered nurse in the home health care unit. She texted Nurse Manager Barb Schaufenbuel on August 31, 2009, stating she would not be in to work because she had a “raw stomach” with some anxiety and depression. She added she may need FMLA.

On September 3, 2009, the claimant contacted Employee Relations Coordinator Cheryl Knutson asking for FMLA papers to be sent to her and this was done the next day. When nothing was received back Ms. Knutson sent another set of papers on September 14, 2009. On September 16, 2009, Ms. Lukavsky sent a written resignation to Ms. Schaufenbuel stating she was quitting effective August 31, 2009, for “medical reasons.” She has suffered from anxiety and depression in the past before starting to work with Mercy and it had recurred.

The stress in this job was the result of ordinary job duties. She and other nurses each had a case load lower than the national average for home health care workers. Her charting, which only she could do regarding the work done with and for the clients, was several weeks behind due to her not keeping up. When she was on FMLA in February 2009 to care for her ill mother, the employer sent another staff member to her home to help her catch up on the charting, but she found this “stressful” as well. In addition, her supervisor had to call her frequently to correct

errors in the charts, to remind her to complete the charting she had not done and generally remind her of any deficiencies in her work. The supervisor does this with all the staff.

The claimant family practitioner had told her she was unable to work at all and needed to quit, He also referred her to a psychiatrist for further treatment. She was released for "non-stressful work" sometime in September and released without restrictions on November 3, 2009. She did not return to Mercy to offer her services or request a job in another unit.

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.

What the claimant maintained was a stressful work environment was actually nothing more than her regular job duties, duties shared by other staff to the same extent. Ms. Lukavsky found them stressful even though the employer went to extraordinary lengths to assist her. It provided her another staff member to go to her home to help her catch up on the backlog of charting she allowed to accumulate. The phone calls from her supervisor would not have been necessary had she only kept her charting accurate and up to date.

Nonetheless, the claimant did have a history of anxiety and depression which this job aggravated. She had the recommendation from her doctor to quit because her condition. Where illness or disease directly connected to the employment make it impossible for an individual to continue in employment because of a serious danger to health, termination of employment for that reason is involuntary and for good cause attributable to the employer even if the employer is free from all negligence or wrongdoing. *Raffety v. IESC*, 76 N.W.2d 787 (Iowa 1956). The employer is free from negligence or wrongdoing in this situation but the claimant was simply incapable of doing the job for which she was hired without aggravating her pre-existing condition. The provisions of Iowa law state the claimant quit with good cause attributable to the employer and are therefore qualified for benefits.

DECISION:

The representative's decision of September 29, 2009, reference 01, is reversed. Cynthia Lukavsky is qualified for benefits, provided she is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/css