

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JENNIFER L KNUST
Claimant

APPEAL NO. 08A-UI-00049-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**PRIME NURSING & REHABILITATION
CENTER**
Employer

OC: 12/09/07 R: 02
Claimant: Respondent (2)

Section 96.5(1) – Voluntary Quit
Section 96.3(7) – Recovery of Overpayments

STATEMENT OF THE CASE:

Prime Nursing & Rehabilitation Center filed an appeal from a representative's decision dated December 27, 2007, reference 01, which held that no disqualification would be imposed regarding Jennifer Knust's separation from employment. After due notice was issued, a hearing was held by telephone on January 17, 2008. The hearing was recessed and reconvened on January 22 and January 25, 2008. Ms. Knust participated personally. The employer participated by John Grosenheider, President/Manager.

ISSUE:

At issue in this matter is whether Ms. Knust was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Knust was employed by Prime Nursing & Rehabilitation Center from November 28, 2006 until November 30, 2007. She worked full time as director of health services. All employees at the facility were to be under her direct supervision. Ms. Knust submitted a five-page letter outlining her reasons for quitting the employment.

One of Ms. Knust's complaints was that the facility administrator, Yvonne Potter, had introduced an individual to residents as someone who might be coming on board as dietary manager in spite of the fact that no other candidates had been interviewed for the position. Ms. Knust found the individual to be offensive because he bragged about his dishes, had no experience in nursing home cooking, and thought shopping at Aldi's was the best place to obtain food.

Another issued raised in the resignation letter indicated Ms. Knust's belief that Mike Potter in maintenance was sexually harassing a female employee and creating a hostile work environment. In support of that contention, she cited the fact that Mr. Potter called the

employee to question why she was still on the property after her shift was over. The female told Ms. Knust that she felt Mr. Potter was micromanaging her. She did not allege any inappropriate touching or statements on the part of Mr. Potter. Ms. Knust also indicated in her resignation that the administrator had alienated the kitchen staff to the point they would be leaving as soon as possible.

It appears that Ms. Knust' primary complaint concerned the actions of Mrs. Potter and Craig Swartzbaugh, a construction manager. During a meeting in October, Mr. Swartzbaugh told Ms. Knust that everyone felt she was controlling and that she played favorites. In December of 2006, Mr. Swartzbaugh cancelled a carpet order placed by Ms. Knust because he wanted to make sure what was being ordered complied with the Americans with Disabilities Act. The same carpet was ordered one month later. Ms. Knust felt it was inappropriate for Mrs. Potter and Mr. Swartzbaugh to discuss personnel-related issues with the owner of the business without her input. She believed the employer terminated the dietary manager at the directive of Mr. Swartzbaugh and Mrs. Potter. Mrs. Potter made the case to the employer that she should have more control over personnel issues that related directly to the skilled nursing facility as it was operating under her license.

Ms. Knust participated in a conference call with the owner and Mrs. Potter on November 29. During the call, she was directed to fire the dietary manager because the employer could not afford him. She was also told that the receptionist would now be responsible for her normal duties as well as those of the business office manager. She learned that some of the changes mentioned during the call had been discussed with the employer by others prior to the call. On or about November 30, she advised the employer that she would not stay in the employment unless given the authority to discharge Mrs. Potter. The employer notified her that Mrs. Potter would be staying and that her resignation was accepted. Continued work would have been available if Ms. Knust had not quit.

Ms. Knust filed a claim for job insurance benefits effective December 9, 2007. She has received a total of \$2,082.00 in benefits since filing her claim.

REASONING AND CONCLUSIONS OF LAW:

An individual who voluntarily quits employment is disqualified from receiving job insurance benefits unless the quit was for good cause attributable to the employer. Iowa Code section 96.5(1). Ms. Knust quit her employment due to conflicts with the administrator, Mrs. Potter, and the construction manager, Mr. Swartzbaugh. Her primary complaint was that the two of them had conversations with the employer about business matters without her involvement. It was certainly their prerogative to discuss with the owners whatever matters they chose. It was their right to talk to the owner if they felt Ms. Knust was not responsive to problems at the workplace. The employer was free to accept or ignore their complaints. The employer did not take any disciplinary action against Ms. Knust as a result of anything reported by Mrs. Potter or Mr. Swartzbaugh.

When the owners did give Ms. Knust directives as a result of reports made by Mrs. Potter and/or Mr. Swartzbaugh, she had a full opportunity to address her concerns with the owners about those directives. Ms. Knust felt Mrs. Potter was usurping some of her authority as it related to some of the personnel issues. It is a point well-taken that Mrs. Potter should have some say in matters that directly affected her license. Therefore, the employer's decision to give her more say in personnel matters was not unreasonable. That still left Ms. Knust in control of the day-to-day operations of the facility.

There was an occasion on which Mr. Swartzbaugh told Ms. Knust that she was too controlling and played favorites. The comment was made in a closed meeting and not in front of subordinates so as to undermine her authority within the workplace. Moreover, Mr. Swartzbaugh had no supervisory authority over Ms. Knust. His comment was not so outrageous as to constitute good cause for quitting. The evidence as a whole failed to establish the Mrs. Potter and Mr. Swartzbaugh had a vendetta against Ms. Knust or that they were acting in concert in an effort to get rid of her.

After considering all of the evidence, the administrative law judge concludes that Ms. Knust quit because of personality conflicts with two other employees. Although she may not have liked the fact that they were conferring with the owner without her knowledge, they were well within their rights and the employer was within its rights to listen to them if they so chose. Their conversations with the owners did not result in any working condition that constituted good cause attributable to the employer for quitting.

For the reasons stated herein, the administrative law judge concludes that Ms. Knust did not have good cause attributable to the employer for quitting. Accordingly, benefits are denied. She has received benefits since filing her claim. Based on the decision herein, the benefits received now constitute an overpayment and must be repaid. Iowa Code section 96.3(7).

DECISION:

The representative's decision dated December 27, 2007, reference 01, is hereby reversed. Ms. Knust quit her employment with Prime Nursing & Rehabilitation Center for no 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 job insurance benefit amount, provided she satisfies all other conditions of eligibility. Ms. Knust has been overpaid \$2,082.00 in job insurance benefits.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/pjs