

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

SHERI L HOTHERSALL
Claimant

PHYSICIANS CLINIC INC
Employer

APPEAL 16A-UI-07506-DB-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 06/12/16
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Code § 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

The claimant/appellant filed an appeal from the July 5, 2016, (reference 01) unemployment insurance decision that denied benefits based upon her voluntarily quitting work without good cause attributable to the employer. The parties were properly notified of the hearing. A telephone hearing was held on July 27, 2016. The claimant, Sheri L. Hotheralls, participated personally. The employer, Physician's Clinic Inc., participated through Employee Relations Consultant Cameron Lind and Director of Practice Operations Stacey Tams.

ISSUES:

Did claimant voluntarily quit the employment with good cause attributable to employer?
Was the claimant discharged for disqualifying job-related misconduct?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full time as medical assistant. She began working for this employer on March 17, 2014 and her employment ended on June 17, 2016. Her job duties included patient care, scheduling appointments, and assisting nurses. Her immediate supervisor was Cole Neihus.

On June 17, 2016 claimant was meeting with Mr. Neihus and Ms. Tams because she was receiving two written disciplinary notices. The first was for an incident that occurred a week or so prior. Another nurse had telephone Mr. Neihus to report to him that she believed the claimant had acted rude to her and refused to schedule a procedure for a patient. Claimant was also receiving another written disciplinary notice for being absent due to illness.

Claimant disagreed with the written discipline regarding the allegations that she was rude to a nurse. She stated that she was not rude to her and that she did in fact complete the requested scheduling of the procedure for the patient. Mr. Neihus refused to believe her and gave her the written discipline anyway. Claimant then became upset, said "I am done with you", threw her badge and stated "yes" when asked if she was quitting. Claimant then left.

During the course of her employment one of claimant's supervisors was Anna Minor. Ms. Minor performed evaluations of claimant's work. Ms. Minor made condescending statements to

claimant and other co-workers. These comments occurred during the entire length of claimant's employment. Claimant had complained to Mr. Neihus about Ms. Minor's attitude and statements towards her on at least twelve different occasions. Ms. Minor never used profanity but would yell at the claimant on occasion. Claimant did not report these concerns with Ms. Minor to the human resources department or anyone else besides Mr. Neihus.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes as follows:

Iowa Code §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.

A voluntary quitting means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer and requires an intention to terminate the employment. *Wills v. Emp't Appeal Bd.*, 447 N.W. 2d 137, 138 (Iowa 1989). A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980). It is clear that claimant had an intention to quit and carried out that intention by turning over her badge, stating that she was quitting and leaving the premises on June 17, 2016.

Because claimant quit, she has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). "Good cause" for leaving employment must be that which is reasonable to the average person, not the overly sensitive individual or the claimant in particular. *Uniweld Products v. Indus. Relations Comm'n*, 277 So.2d 827 (Fla. Dist. Ct. App. 1973).

In this case claimant contends that she voluntarily quit because of the harassment she was receiving from Ms. Minor. Claimant testified to the specific comments that Ms. Minor would make to her if she completed a task incorrectly or not according to Ms. Minor's satisfaction. Ms. Minor never used profane language but did raise her voice at the claimant.

Iowa Admin. Code r. 871-24.26(4) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

- (4) The claimant left due to intolerable or detrimental working conditions.

Claimant contends that her working conditions with Ms. Minor were intolerable or detrimental due to comments Ms. Minor made to her. A notice of intent to quit is not required for intolerable working conditions. *Hy-Vee, Inc. v. Emp't Appeal Bd.*, 710 N.W.2d 1 (Iowa 2005). Ms. Minor told claimant "I have told you time and time again, what is it that you don't understand? You need to remember this" and "I told you not to do this, go back in there and print it out". These actions did not rise to the level of intolerable or detrimental. Rather, it was clear that claimant and Ms. Minor did not get along.

Iowa Admin. Code r. 871-24.25(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 left, in part, as a result of her inability to work with Ms. Minor. Claimant also left, in part, as a result of receiving disciplinary action which she disagreed with.

Iowa Admin. Code r. 871-24.25(28) 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:

(28) The claimant left after being reprimanded.

Neither of claimant's two reasons for her voluntary quit is with good cause attributable to the employer. As such, benefits must be denied.

DECISION:

The July 5, 2016, (reference 01) unemployment insurance decision is affirmed. Claimant voluntarily quit employment without good cause attributable to the employer. Unemployment insurance benefits shall be withheld in regards to this employer until such time as claimant is deemed eligible.

Dawn Boucher
Administrative Law Judge

Decision Dated and Mailed

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