

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MARTIE M CHAUVIN
Claimant

APPEAL NO. 13A-UI-11222-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

DEVELOPMENTAL SERVICES OF IOWA
Employer

OC: 09/08/13
Claimant: Appellant (2)

Iowa Code § 96.5(1) – Voluntary Leaving
871 IAC 24.26(4) – Intolerable Working Conditions

STATEMENT OF THE CASE:

The claimant filed an appeal from the September 27, 2013, (reference 01) unemployment insurance decision that denied benefits. After due notice was issued, a hearing was held on October 30, 2013. Claimant participated. Employer did participate through Jenifer Bogacz, Human Resources Manager. Claimant's Exhibit A was entered and received into the record.

ISSUE:

Did the claimant voluntarily quit her employment without good cause attributable to the employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full time as a program coordinator beginning on February 8, 2012 through August 27, 2013, when she voluntarily quit her job. The claimant quit because the employer was having her engage in what she believed to be unethical or illegal behavior. The claimant sought without success to have Ms. Fustos, her direct supervisor, address some of her complaints. Ms. Fustos ordered the claimant to purchase decorations for some of the resident's living quarters then months later billed the residents for items they did not request or purchase. Ms. Fustos lead the claimant to believe that she was purchasing the items from the company funds, not client funds.

Ms. Fustos ignored a directive from the Council Bluffs individual in charge that they were only to take individuals from the county. Just a few days later Ms. Fustos told the claimant that she was going to ignore the instruction and she accepted a client from outside the county. Ms. Fustos altered a billing statement after a case manager had signed it without telling the signing party that she was making the changes. Ms. Fustos also asked the claimant to send a bill to a case manager and request that the case manager include the brace as part of the treatment plan so that the employer could be reimbursed for the cost of the brace. The case manager became very upset, called the claimant and told her that the whole reason the employer had to pay for the brace was because they employer's employees had thrown away

the resident's brace. Ms. Fustos had agreed to pay the bill, and then attempted to seek reimbursement through the Medicaid program.

Ms. Fustos constantly gave the claimant contradictory instructions. When the claimant was attempting to get one of her supervisors a pay raise, she was initially told the person needed to supervise more houses. When the supervisor took on more work and supervised more houses, she was then told the supervisor needed to supervise more people. When the supervisor took over management of more people, she was again denied a pay raise despite Ms. Fustos giving one of her favorite supervisors a pay raise.

Ms. Fustos accepted a client that everyone agreed could not safely be placed in a home with other residents who were vulnerable. Ms. Fustos made the placement anyway despite the fact that she placed resident's safety in jeopardy. Four days after the placement, the resident attacked a staff member. Only after an attack on the staff member was the resident moved out of the house. Ms. Fustos also accepted a client without insuring that the home had the capacity to meet the medical needs of the client. Hospital administrators met with the employer to express their displeasure at Ms. Fustos' handling of the situation. Ms. Fustos cared only about meeting revenue expectations and would accept any resident in order get access to the revenue funding into the business.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left the employment with good cause attributable to the employer.

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.

871 IAC 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.

In 1985 the Iowa Administrative Code was amended to include an intent-to-quit requirement. The requirement was only added, however, to rule 871-24.26(6)(b), the provision addressing work-related health problems. No intent-to-quit requirement was added to rule 871-24.26(4), the intolerable working conditions provision. Our supreme court recently concluded that, because the intent-to-quit requirement was added to 871-24.26(6)(b) but not 871-24.26(4), notice of intent to quit is not required for intolerable working conditions. *Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1 (Iowa 2005).

Each incident standing alone may not have led to an intolerable work environment, but the accumulation of events clearly gave rise to a work environment that was intolerable for the claimant. She was not allowed to insure that residents were placed safely, legally and appropriately. Nor did the employer follow through with promised results for staff members

when they met the set expectations. Under the totality of circumstances, the administrative law judge concludes that the employer created an intolerable work environment for claimant that gave rise to a good cause reason for leaving the employment. Benefits are allowed.

DECISION:

The September 27, 2013, (reference 01) decision is reversed. The claimant voluntarily left her employment with good cause attributable to the employer. Benefits are allowed, provided the claimant is otherwise eligible.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/css