

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SUSAN K BEAUDETTE

Claimant

APPEAL NO. 09A-UI-01373-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

PACIFICA HEALTH SERVICES LLC

Employer

**OC: 11/16/08 R: 02
Claimant: Respondent (1)**

Iowa Code Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

The employer filed a timely appeal from the January 20, 2009, reference 01, decision that allowed benefits. After due notice was issued, a hearing was held on February 17, 2009. Claimant Susan Beaudette participated personally and was represented by Attorney Jon Garner. Allen Wolnerman, Owner and President, represented the employer and presented additional testimony through Kim Miles, Human Resources Manager. Exhibit A was received into evidence.

ISSUE:

Whether the claimant's voluntary quit was for good caused attributable to the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The employer operates multiple nursing home facilities. Susan Beaudette was employed by Pacifica Health Services as a full-time accounts receivable manager from June 21, 1991 until November 3, 2008, when she voluntarily quit. Ms. Beaudette's husband, John Beaudette, was company president until October 31, 2008. Mr. Beaudette continues to be a co-owner/partner in the business. Ms. Beaudette's voluntary quit occurred in the context of a disagreement between the partners and pitted owner Allen Wolnerman against Mr. Beaudette.

In early October, Mr. Wolnerman met with department heads to outline a new chain of command to be followed in the workplace. Ms. Beaudette was included in the meeting. From that point forward, department heads were to route all matters involving money to Mr. Wolnerman and to route operational matters not involving a money transaction to Mr. Beaudette. Ms. Beaudette was aware at that time of the friction brewing between the partners. Ms. Beaudette met privately with Mr. Wolnerman and asked him specifically not to draw her into the middle of the partners' dispute.

On October 31, Mr. Beaudette resigned as company president. Toward the end of the workday, Mr. Wolnerman telephoned Ms. Beaudette at her office. Mr. Wolnerman asked Ms. Beaudette to relay a message to her husband. The message Mr. Wolnerman wanted Ms. Beaudette to

relay was that Mr. Wolnerman expected Mr. Beaudette to return all company property, including his company car, immediately or Mr. Wolnerman would contact police and have him arrested. This contact from Mr. Wolnerman to Ms. Beaudette was very disturbing to Ms. Beaudette. Ms. Beaudette was sufficiently concerned about the threatening nature of Mr. Wolnerman's call and the escalating dispute between the partners that she asked Kim Miles, Human Resources Manager, to stay with her in her office until Ms. Beaudette left for the day.

On November 3, Ms. Beaudette's immediate supervisor, Deanne Finley, and another employer representative, Jennifer Conner, met with Ms. Beaudette to discuss changes in her work conditions. No longer would the employer allow Ms. Beaudette to have a set of keys to the workplace. No longer would the employer allow Ms. Beaudette to take work home. No longer would the employer allow Ms. Beaudette to remotely access the employer's computer system to perform her duties. All of these employer-initiated changes were prompted by the dispute between the partners.

The last straw for Ms. Beaudette was a harassing message Mr. Wolnerman left on Ms. Beaudette's home telephone on November 3. The message was directed to Mr. Beaudette. In the message, Mr. Wolnerman indicated that the other partners were preparing to take legal action against Mr. Beaudette. Mr. Wolnerman indicated that he had learned Mr. Beaudette had accepted a new position. Mr. Wolnerman indicated that he would be contacting Mr. Beaudette's new supervisor. Mr. Wolnerman indicated that Mr. Beaudette should start the work as soon as possible and work as much as possible because Mr. Wolnerman intended to see that the new employment did not last more than a week or two. Mr. Wolnerman directed Mr. Beaudette to return company property and suggested he might send it by Ms. Beaudette. The tone of the message was sarcastic and harassing from start to finish and indicated an intent to intimidate and alarm Mr. Beaudette. Ms. Beaudette was the first to hear the message on the family's answering machine.

After reviewing the message, Ms. Beaudette notified Ms. Miles and Acting Administrator David Armington that she was resigning the employment because of Mr. Wolnerman's conduct and continued attempts to involve her in the partner dispute. Ms. Beaudette followed up with a written resignation.

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.

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 698, 612 (Iowa 1980) and Peck v. EAB, 492 N.W.2d 438 (Iowa App. 1992). 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. See 871 IAC 24.25.

Quits due to intolerable or detrimental working conditions are deemed to be for good cause attributable to the employer. See 871 IAC 24.26(4). The test is whether a reasonable person would have quit under the circumstances. See Aalbers v. Iowa Department of Job Service,

431 N.W.2d 330 (Iowa 1988) and O'Brien v. Employment Appeal Bd., 494 N.W.2d 660 (1993). Aside from quits based on medical reasons, prior notification of the employer before a resignation for intolerable or detrimental working conditions is not required. See Hy-Vee v. EAB, 710 N.W.2d (Iowa 2005).

The weight of the evidence establishes that Mr. Wolnerman did in fact create working conditions for Ms. Beaudette that were intolerable and detrimental and that would have prompted a reasonable person to quit the employment. Mr. Wolnerman glosses over, minimizes, and flat out denies the impact that his open hostility toward Mr. Beaudette had on Ms. Beaudette and her employment. The evidence indicates that Mr. Wolnerman repeatedly and deliberately involved Ms. Beaudette in his dispute with her husband. Mr. Wolnerman persists in his denial of inappropriate conduct even in the face of the recorded message and other overwhelming evidence. Mr. Wolnerman's testimony was seriously lacking both in candor and credibility. There is no evidence to support Mr. Wolnerman's assertion that Ms. Beaudette quit due to a mere personality conflict with a supervisor or mere dissatisfaction with the work environment.

Based on the evidence in the record and application of the appropriate law, the administrative law judge concludes that Ms. Beaudette voluntarily quit the employment for good cause attributable to the employer. Accordingly, Ms. Beaudette is eligible for benefits, provided she is otherwise eligible. The employer's account may be charged for benefits paid to Ms. Beaudette.

DECISION:

The Agency representative's January 20, 2009, reference 01, decision is affirmed. The claimant voluntarily quit the employment for good cause attributable to the employer. The claimant is eligible for benefits, provided she is otherwise eligible. The employer's account may be charged for benefits paid to the claimant.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

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