

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LANA E MURRY
Claimant

APPEAL NO. 10A-UI-04792-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WESLEY RETIREMENT SERVICES INC
Employer

OC: 02/28/10
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Lana Murry filed a timely appeal from a representative's decision dated March 23, 2010, reference 02, which denied benefits based upon her separation from Wesley Retirement Services, Inc. After due notice, a telephone hearing was scheduled and held on May 11, 2010. The claimant participated personally. Participating on behalf of the claimant was her attorney, Mr. Jeffrey Smith. The employer participated by Lavonda Davidson, Human Resource Manager, and Nancy Hamilton, Administrator.

ISSUE:

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

FINDINGS OF FACT:

Having considered all of the evidence in the record, the administrative law judge finds: Lana Murry began employment with Wesley Retirement Services, Inc. on January 1, 2010 when that company took ownership of the facility where Ms. Murry had previously been employed. Ms. Murry was employed as a full-time charge nurse and was paid by the hour. Her immediate supervisor was Kelly McGriff, Nurse Manager.

Ms. Murry voluntarily left her employment with Wesley Retirement Services on February 16, 2010 stating to the nurse manager in a telephone call: "I've had enough." Ms. Murry believed that Ms. McGriff was aware of her areas of dissatisfaction.

Ms. Murry was dissatisfied with the manner in which the new employer was administering the care facility where Ms. Murry was employed. The new owners had indicated to employees at the outset that their employment at the facility would essentially be "the same."

As time progressed the new management team began to implement various changes in the manner in which the facility was administered and changed a number of procedures to conform more closely to Wesley Retirement's method of doing business. Ms. Murry found that she was required to answer telephone calls that were not directly related to her work on the floor and

deliveries were also to be deposited at the charge nurse's work area. The claimant was required to assist in providing transportation for residents and the claimant considered that a number of procedures were unsettled and open to interpretation.

The claimant became increasingly concerned when a third full-time nurse was hired for the unit. Ms. Murry felt that the addition of the nurse may have been an indication that the employer had plans to replace the claimant. Ms. Murry had gone to her immediate supervisor, Ms. McGriff, on a number of occasions to ask for clarifications and to indicate her dissatisfaction with the manner in which the new owners were conducting business. Although it appears that Ms. McGriff attempted to explain the reasons for the changes, the claimant felt the reasons did not justify the manner in which the new employers were conducting business.

Ms. Murry became concerned about additional issues such as lack of supplies for blood draws that temporarily occurred and a decision to transport a resident by wheelchair for a procedure during inclement weather. The claimant considered these factors to place her nursing license in jeopardy.

On February 16, Ms. Murry went to speak to Ms. McGriff again about her areas of dissatisfaction. When the claimant arrived at Ms. McGriff's office she found two other administrators present and the claimant was informed at that time that she was under investigation although the employer did not specify the reason. Ms. Murry felt her employment was in jeopardy and, therefore, resigned in anticipation of being discharged.

The employer had been informed that day of a potential medication error that had occurred earlier and issues with the record keeping related to the medication error. As the matter was under investigation at the time management did not state the reason for the investigation to Ms. Murry. After taking over the facility, the employer held a number of meetings to explain various changes that were to be implemented by the new owners. Wesley Retirement Services, Inc. uses an "open door" policy. Employees are free to go up the chain of command if they feel that their immediate supervisor is not being responsive to their issues or complaints. Ms. Murry had gone up the chain of command for other reasons prior to quitting her employment but did not do so at the time that she left.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes that the claimant voluntarily left employment without good cause attributable to the employer.

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.

An individual who voluntarily leaves their employment must first give notice to the employer of the reasons for quitting in order to give the employer an opportunity to address or resolve the complaint. Cobb v. Employment Appeal Board, 506 N.W.2d 445 (Iowa 1993). Employees who receive a reasonable expectation of assistance from the employer after complaining about working conditions must complain further if conditions persist in order to preserve eligibility for benefits. Polley v. Gopher Bearing Company, 478 N.W.2d 775 (Minn. App. 1991).

Although the employer had given general representations the employment would remain essentially the same to workers when they took over the facility, it is reasonable that employees would conclude that some changes would be implemented by the new owners as time progressed. The evidence in the record establishes that Ms. Murry experienced some difficulty with a lack of supplies and implementation of new policies, however, the employer took steps to ensure adequate supplies and that employees were aware of any changes in policy and the reasons for them, when appropriate. When a new full-time nurse was hired, Ms. Murry anticipated that the new nurse was being hired to replace the claimant although that was not the employer's intention. When the claimant was informed that she was the subject of an investigation, Ms. Murry further concluded that the employer may be trying to discharge her and chose to leave employment at that time. The claimant had complained to her immediate supervisor about the issues previously enumerated but did not go up the chain of command with these issues prior to leaving, therefore, precluding the employer from taking any remedial action that may have been necessary or available to keep the claimant as an employee.

Inasmuch as the claimant did not indicate to her immediate supervisor at the time of leaving the reason for leaving, or go up the chain of command previously to resolve her complaints the separation was without good cause attributable to the employer. Benefits are denied.

DECISION:

The representative's decision dated March 23, 2010, reference 02, is affirmed. The claimant quit employment without good cause attributable to the employer. Unemployment insurance benefits are withheld until the claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, providing that she is otherwise eligible.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

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