

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TERESA A RATLIFF
Claimant

APPEAL NO. 08A-UI-11048-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

GENESIS HEALTH SYSTEM
Employer

**OC: 10/19/08 R: 04
Claimant: Respondent (1)**

Iowa Code Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

The employer filed a timely appeal from the November 17, 2008, reference 01, decision that allowed benefits. After due notice was issued, a hearing was held on December 10, 2008. Claimant Teresa Ratliff participated. Tammy McAleer, Clinic Manager, represented the employer. Exhibit One was received into evidence.

ISSUE:

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

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Teresa Ratliff was employed by Genesis Health System on a full-time basis from September 14, 2006 until October 3, 2008, when she voluntarily quit. Ms. Ratliff started the employment as a medical assistant. On April 20, 2008, Ms. Ratliff transferred to a clinic receptionist position at another location. At the time Ms. Ratliff started the new location, Maggie King was Site Supervisor and Ms. Ratliff's immediate supervisor. At the end of July 2008, the employer removed Ms. King from the Site Supervisor position and Ms. King transferred to a Licensed Practical Nurse position elsewhere within the employer's business. After Ms. King's transfer, Tammy McAleer, Clinic Manager, became the interim supervisor.

Ms. Ratliff had experienced no problems in the employment prior to transferring to the clinic receptionist position. Ms. Ratliff realized after she started in the new position that she had transferred into a toxic work environment. Two of Ms. Ratliff's fellow receptionists, Terri Brown and Wendy Frederick, treated Ms. Ratliff with open disrespect and disregard. When Ms. Ratliff asked these two receptionists for help with projects, they would ignore the request and not respond at all. The receptionist staff changed the color of the "scrubs" they wore every few months. On one occasion, Ms. Ratliff appeared in the old scrubs color because she could not yet afford new scrubs in the new color. One of the two receptionists pointed out Ms. Ratliff's outfit in front of others and advised Ms. Ratliff in front of others that she was dressed inappropriately. Ms. Ratliff was forced to divulge that she did not yet have money enough to buy the new scrubs.

The employer knew there were significant problems amongst the receptionist staff. Ms. Ratliff went to Ms. King multiple times with her concerns about the treatment she received from her coworkers. Ms. King did not provide a remedy. After Ms. King's transfer, Ms. Ratliff took her concerns to Ms. McAleer on multiple occasions. Ms. Ratliff was often in tears when she went to Ms. McAleer. Ms. McAleer did not document this contact in any meaningful way and did not take meaningful and reasonable steps to address the situation. Ms. Ratliff requested to transfer and was initially told that she could not transfer until after she had been in the new position for six months. The employer eventually told Ms. Ratliff that she could transfer, but that she would have to locate a position to transfer to. Ms. Ratliff found that other areas of the employer's business were unwilling to discuss a possible transfer with her and concluded that this was because she had not been in her position for six months. Ms. Ratliff attempted to take her concerns to Human Resources Director Craig Fields. Ms. Ratliff left messages for Mr. Fields, but did not receive a response from Mr. Fields.

Ms. Ratliff ultimately decided on September 23, 2008, that she could no longer continue in the employment. Ms. Ratliff had concluded that Ms. Brown and Ms. Frederick were intentionally taking steps to force Ms. Ratliff to leave her position. Ms. Ratliff drafted a cursory resignation memo and delivered it to Ms. McAleer. Ms. Ratliff indicated in the note that her last day would be October 3, 2008. Ms. Ratliff worked until October 3 and then voluntarily quit the employment.

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).

Where a person voluntarily quits the employment due to dissatisfaction with the work environment, the quit is presumed to be without good cause attributable to the employer. See 871 IAC 24.25(21). Likewise, where a person voluntarily quits due to an inability to work with other employees, the quit is presumed to be without good cause attributable to the employer. See 871 IAC 24.25(6).

When it is in a party's power to produce more direct and satisfactory evidence than is actually produced, it may fairly be inferred that the more direct evidence will expose deficiencies in that party's case. See Crosser v. Iowa Dept. of Public Safety, 240 N.W.2d 682 (Iowa 1976). The administrative law judge notes that neither party provided testimony from Ms. Brown or Ms. Frederick.

During the hearing, the administrative law judge was surprised by Ms. McAleer's failure to document any of the times that Ms. Ratliff went to Ms. McAleer in tears to express concern about her work environment. Ms. McAleer's testimony was exceedingly vague on key matters. The weight of the evidence in the record suggests significant problems in the work environment. Ms. Ratliff had experienced no problems with the employment for the year and half she worked for the employer prior to transferring to the receptionist position. Ms. King was removed from supervising the receptionists "by mutual agreement." Ms. McAleer was negligent in failing to document significant contacts with a distraught employee. The administrative law judge concludes that the general vagueness of Ms. McAleer's testimony lends credibility to Ms. Ratliff's testimony and her assertion that her coworkers were scheming to compel her to leave her position. The administrative law judge notes that Ms. McAleer's testimony conflicts somewhat with the information provided by the employer at the fact-finding interview and reflected in the interviewer's notes:

Teresa quit the job. The person in charge was let go and we were trying to straighten it out. The office had issues. We said she could transfer. I don't know what happened to that. There was a lot of stress in the office, but everybody else is still there.

The administrative law judge concludes, based on the weight of the evidence, that Ms. Ratliff quit in response to intolerable and detrimental working conditions that would have caused a reasonable person to quit the employment.

The administrative law judge concludes that Ms. Ratliff quit the employment for good cause attributable to the employer. Accordingly, Ms. Ratliff is eligible for benefits, provided she is otherwise eligible. The employer's account may be charged for benefits paid to Ms. Ratliff.

DECISION:

The Agency representative's November 17, 2008, reference 01, decision is affirmed. The claimant 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

jet/pjs

