

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

PATRICIA A MORGAN
Claimant

APPEAL NO. 06A-UI-08856-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

REM IOWA COMMUNITY SERVICES INC
Employer

OC: 08/06/06 R: 04
Claimant: Respondent (1)

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated August 25, 2006, reference 01, that concluded she voluntarily left employment with good cause. A telephone hearing was held on September 19, 2006. The parties were properly notified about the hearing. The claimant participated in the hearing. April Degala participated in the hearing on behalf of the employer with witnesses, Sherry Higdon and Amber Glasscock. Exhibits One through Four were admitted into evidence at the hearing.

ISSUE:

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

FINDINGS OF FACT:

The claimant worked full time for the employer as a residential counselor from August 2, 2005, to August 6, 2006. Her job involves caring for individuals with physical and mental disabilities in either a group home or apartment situation. The claimant was informed and understood that her position required daily interaction with individuals who had the potential to become physically aggressive towards themselves and others.

On August 6, 2006, the claimant was assigned to work a noon to overnight shift at a location with three consumers. She had never worked there before but had been told by other employees that one of the clients was difficult to control because he had a mental capacity of a two-year-old and could not communicate verbally. The claimant arrived early at the residence to get oriented about the consumers and their needs. The staff person on duty was unable to control the consumer. The claimant observed the consumer trying to bite the staff person on the ankle and had to stop him from knocking over the dresser. The staff member said there was no way to control the consumer other than making him go to his room, which she was unsuccessful in doing at that time.

The claimant became frightened about the prospect of supervising the resident alone because of the actions she had observed. She had never worked with anyone that mentally impaired and did not feel prepared to handle the resident by herself. She was aware of other situations in which the employer had allowed residential counselors to double up at a residence. She called Sherry Higdon, who was the pager on duty for handling staffing matters. She explained her concerns and told Higdon that she wanted a double up. Higdon told her that her options were to stay and work by herself or find someone to replace her. The claimant unsuccessfully tried to find a replacement and then talked to April Degala, the unit coordinator. She told Degala that she was afraid to work alone with this consumer and would not stay there by herself. Degala responded that it was her job and the employer would not send someone to work with her. The claimant responded that if she did not get any help, she would have to quit.

The employer then sent an employee who was working as a double up at nearby site to stay temporarily until a replacement was located to work for the claimant. The employee told the claimant that he had refused in the past to work at that location. The employee stayed until they found out that another staff member was on her way. At one point, the consumer grabbed the claimant's wrist and pulled her around the residence wanting something but the claimant could not determine what he wanted. She got him to release her wrist but was concerned for her personal safety. She went home after her replacement arrived. On August 9, 2006, the claimant submitted a written resignation at the employer's request. She quit because of the way that the employer handled the situation on August 6, 2006.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant voluntarily quit 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.

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.

The findings of fact show how I resolved the disputed factual issues in this case by carefully assessing of the credibility of the witnesses and reliability of the evidence and by applying the proper standard and burden of proof. The employer's conduct during the incident on August 6 disregarded the claimant's legitimate concerns about her safety. Instead of addressing her concerns, she was told that she had to stay with a consumer that she feared until she found her own replacement. Good cause due to intolerable and detrimental working conditions has been established.

DECISION:

The unemployment insurance decision dated August 25, 2006, reference 01, is affirmed. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/kjw