

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CAROLE D MARBURGER
Claimant

APPEAL NO. 09A-UI-04901-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

COMMUNITY CARE INC
Employer

OC: 02/22/09
Claimant: Respondent (1)

Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Community Care, Inc. (CCI) filed an appeal from a representative's decision dated March 16, 2009, reference 01, which held that no disqualification would be imposed regarding Carole Marburger's separation from employment. After due notice was issued, a hearing was held by telephone on April 23, 2009. Ms. Marburger participated personally. The employer participated by Carol Wells, Human Resources Director; Diane Mullins, Administrative Assistant; and Angela Ganzer-Bovitz, Director of Quality Management/Interim Administrator.

ISSUE:

At issue in this matter is whether Ms. Marburger was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Marburger was employed by CCI from March 24, 2003 until February 20, 2009. She was last employed full time as food service coordinator. In November of 2008, the employer switched her from being an hourly employee to being a salaried employee. The change was made so that there would be consistency among the food service coordinators at all facilities operated by the employer.

In January of 2009, the employer eliminated two positions from the dietary department. These two positions, utility person and dining room attendant, represented 160 hours per pay period. Their duties had to be assumed by others working in the dietary department, including Ms. Marburger. An administrative assistant or someone from housekeeping helped periodically but not on regular or consistent basis. Some duties were given to other departments but this only freed the dietary department for approximately three hours each day. Ms. Marburger found she had to perform duties she had not previously had to perform, such as cleaning floors, bathrooms, food service equipment, and dishes.

Ms. Marburger notified the employer on February 8 or 9 that she could not handle the additional duties but was advised that there were no more hours to give to the dietary department. The

employer was in the process of closing a unit and anticipated the change would not be completed until the end of April of 2009. At that point, there would be fewer residents to provide services for and, therefore, the workload would decrease. During the interim, the dietary department would continue to function with the same number of positions. As a result of the increase in her workload, Ms. Marburger quit on February 20, 2009.

REASONING AND CONCLUSIONS OF LAW:

An individual who leaves employment voluntarily is disqualified from receiving job insurance benefits unless the quit was for good cause attributable to the employer. Iowa Code section 96.5(1). Ms. Marburger quit because of an increase in her workload caused by the elimination of two full-time positions in her department. Although approximately three hours of each day's work was redistributed to others, that left approximately 13 hours of work remaining to be performed by existing staff. This necessarily involved an increase in the work duties for all kitchen staff.

Ms. Marburger put the employer on notice that she could not handle the increase in duties. However, no changes were forthcoming until at least the end of April. She was expected to perform increased duties for the same pay. The administrative law judge considers this an intolerable working condition and, as such, provided good cause attributable to the employer for quitting. 871 IAC 24.26(4). Therefore, benefits are allowed.

DECISION:

The representative's decision dated March 16, 2009, reference 01, is hereby affirmed. Ms. Marburger voluntarily quit her employment with CCI for good cause attributable to the employer. Benefits are allowed, provided she is otherwise eligible.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/css