

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DONNABELLE SMITH
Claimant

APPEAL NO. 07A-UI-07780-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CARE INITIATIVES
Employer

OC: 07/15/07 R: 03
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Donnabelle Smith filed an appeal from a representative's decision dated August 7, 2007, reference 01, which denied benefits based upon her separation from Care Initiatives. After due notice was issued, a hearing was held by telephone on August 28, 2007. Ms. Smith participated personally. Participating on her behalf was her attorney, Mr. Robert Wilson. The employer participated by Josh Burrows, Hearing Representative and witness, Kathy Gansen. Exhibits One and Two were received into evidence.

ISSUE:

At issue in this matter is whether Ms. Smith quit for good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge having heard the testimony and considered all of the evidence in the record, finds: The claimant worked for this employer from June 6, 2001 until July 11, 2007 when she voluntarily quit employment. Ms. Smith held the position of full-time laundry assistant and was paid by the hour. Her immediate supervisor was Assistant Administrator Kathy Gansen.

The claimant quit her employment with Care Initiatives after providing two-weeks' notice of her intention to leave. The facilities assistant administrator had heard rumors that the claimant was leaving employment and approached Ms. Smith about her plans. The claimant confirmed her intention to leave and submitted a written statement citing changes in her schedule since returning from casual status, dissatisfaction with staggered leaving time for laundry employees, ventilation and air conditioning in the laundry area and biohazards piled in the sink as her reasons for leaving. Upon becoming aware of the claimant's reasons for leaving, the assistant administrator attempted to follow up on the reasons given by Ms. Smith. It was determined that the placement of double bagged laundry categorized as biohazard had been placed in the sink area by Ms. Smith and the claimant as a laundry worker had the ability and authority to place the bags in another location so as to avoid blocking a hand washing area. It was further determined that the claimant had been specifically informed upon her return from a leave of absence that if she desired to reassume a full-time work status that her working hours might

fluctuate somewhat due to patient census, in this case requiring the claimant to work one extra day in a pay period to maintain full-time status. Ms. Smith was aware of the staggered shift scheduling that allowed a coworker to leave approximately one-half hour earlier and had the ability to arrange work so that the claimant was not required to perform more than her fair share of work during the last half hour of each shift. Ms. Smith was aware of the nature of her work as a laundry worker, the location of the laundry and the physical surroundings at the time she initially accepted employment and at the time that she chose to return and request reassignment to a full-time position in the laundry. Ms. Smith cited no medical reasons for leaving at the time that she tendered her resignation to Ms. Gansen. The employer was generally aware however that the claimant at times believed that her position was stressful as the claimant had from time to time made general complaints to Ms. Gansen. Ms. Smith supplied no medical documentation indicating that she was leaving work for medical reasons to the employer before or after her leaving.

In a statement dated August 20, 2007, approximately six weeks after the claimant's leaving, the claimant's doctor indicates that she had been working with the claimant regarding high blood pressure and sweating issue and moderate anxiety. The claimant's doctor states that because of those issues the claimant "stopped working." Doctor Harmon does not state that the claimant was advised to leave employment for medical reasons.

REASONING AND CONCLUSIONS OF LAW:

Claimants who voluntarily leave employment without "good cause attributable to the employer" are disqualified from benefits. See Iowa Code section 96.5-1. The claimant has the burden of proof in cases involving quits. See Iowa Code section 96.6-2. Before benefits may be awarded to claimants who have quit the evidence should show that before resigning the claimant put the employer on notice of the condition, warn the employer that he or she may quit if the situation was not addressed and that the claimant gave the employer a reasonable opportunity to address legitimate grievances. See Suluki v. Employment Appeal Board, 503 N.W.2d 402 (Iowa 1993), Cobb v. Employment Appeal Board, 506 N.W.2d 445 (Iowa 1993) and Swanson v. Employment Appeal Board, 554 N.W.2d 294 (Iowa App.1996). Prior notification of the employer before a resignation for a medical reason is required. See O'Brien v. Employment Appeal Board, 494 N.W.2d 660 (Iowa 1993).

The administrative law judge concludes based upon the evidence in the record that the claimant quit employment due to general dissatisfaction with the nature of her work, her desire to improve her health and spend time with family members. Ms. Smith was aware of the nature of the work that she had accepted and she had requested to return to that work after a leave of absence. Ms. Smith was reasonably informed that due to staffing needs based upon census that her working hours may somewhat be varied upon her return. The claimant was also aware that a coworker would leave one-half hour earlier based upon staggered work times and had the ability to apportion work in a manner so the claimant was not burdened during her last half-hour of work. Ms. Smith had the ability to determine the placement of laundry bags properly containing potentially biohazardous laundry and had the ability to change places with her fellow worker so as to avail herself of a cooler location in the laundry area. Prior to leaving her employment the record establishes that Ms. Smith provided no direct notification to the employer that she was having medical issues or that she required special accommodations and the record does not establish that the claimant was advised to leave employment by a medical practitioner. As soon as the employer was apprised of the claimant's areas of dissatisfaction, the assistant administrator began to attempt to make changes to make the workplace more compatible with the needs of employees.

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.

For reasons stated herein the administrative law judge finds that the claimant quit her employment for reasons that were not directly attributable to the employer. Benefits are withheld.

DECISION:

The representative's decision dated August 7, 2007, reference 01, is hereby affirmed. The claimant quit employment for reasons not attributable to the employer. Benefits are withheld until the claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, providing the claimant is otherwise eligible.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

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