

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

MICHELE R HILL
46 YALE AVE
MAQUOKETA IA 52060

MAQUOKETA VETERINARY CLINIC PC
615 S MAIN ST
MAQUOKETA IA 52060

Appeal Number: 05A-UI-02828-JTT
OC: 02/06/05 R: 04
Claimant: Respondent (1)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5(2)(a) – Voluntary Quit

STATEMENT OF THE CASE:

Maquoketa Veterinary Clinic (MVC) filed a timely appeal from the March 8, 2005, reference 01, decision that allowed benefits. After due notice was issued, a hearing was held on April 5, 2005. Michelle Hill participated in the hearing. MVC participated through owner Walter John Sturtz, D.V.M. During the course of Dr. Sturtz's testimony, he became disruptive and belligerent. After multiple warnings from the administrative law judge that continued outbursts would lead to Dr. Sturtz being expelled from the hearing, the administrative law judge did expel Dr. Sturtz from the hearing pursuant to 871 IAC 26.14(12). The hearing was concluded shortly thereafter. Exhibits A, E, F, and G were received into evidence.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Michele Hill was employed by MVC as a full-time office manager from September 13, 2004 until February 4, 2005, when she voluntarily quit the employment due to intolerable and detrimental working conditions.

At the time Ms. Hill was hired, her duties as office manager consisted of washing the clinic's laundry, taking care of animals, paying the clinic's bills, maintaining the inventory, filing, and scheduling appointments. Ms. Hill was paid a wage of \$9.00 per hour and worked 40 to 54 hours per week. Ms. Hill received no training for the position. Dr. Sturtz instructed her to call "Dixie," the previous office manager, if she had any questions.

On one occasion, Ms. Hill telephoned the previous office manager. When law enforcement officers subsequently appeared at the clinic, Ms. Hill learned there was a court order prohibiting Dr. Sturtz from initiating direct or indirect contact with "Dixie." Around this time, Ms. Hill also learned that "Dixie" had a pending lawsuit against Dr. Sturtz. Dr. Sturtz had discussed with Ms. Hill his sexual exploits with the previous office manager, including sexual encounters at the clinic, and advised Ms. Hill she did not have to worry about him falling in love with her because she was too tall. Dr. Sturtz's disregard for appropriate boundaries caused Ms. Hill to experience a great deal of stress.

Soon after Ms. Hill commenced her employment, Dr. Sturtz added to her assignments the responsibility of balancing his personal checkbook and paying his personal bills, as well as functioning as an intermediary between Dr. Sturtz and his estranged-wife regarding their pending dissolution of marriage.

At the time Ms. Hill interviewed for the position of office manager at MVC, Dr. Sturtz had advised her that he was a recovering alcoholic. At some point, Ms. Hill learned that he also suffered from bipolar disorder. Despite the announcement that Dr. Sturtz was in recovery for his alcoholism, Dr. Sturtz's ongoing use and abuse of alcohol increasingly became the focus and the controlling element in Ms. Hill's employment at MVC. Ms. Hill was uncomfortable when she learned that Dr. Sturtz kept beer in the clinic's refrigerator, and when she observed Dr. Sturtz and the other employee, Bruce, drinking beer at the clinic upon returning from a "cattle job."

Soon after commencing her employment, Ms. Hill found herself, with increasing frequency, in the position of having to "cover" for Dr. Sturtz when he failed to appear at the clinic for appointments because he was either too intoxicated or too hung-over to come to work. The situation deteriorated to the point where Dr. Sturtz failed to appear at the clinic for three days in a row, and then failed to appear for an entire week. When Dr. Sturtz did appear at the office, it was increasingly later in the day. On Saturdays, which were busy days at the clinic, Ms. Hill would go to work, but Dr. Sturtz would fail to appear for his scheduled appointments.

Ms. Hill was under extreme stress as a result of having to schedule and reschedule appointments, and having to explain the veterinarian's absence to patrons. The situation was overwhelming and she was at times reduced to tears. She began to experience physical symptoms from the stress. These included stomach problems and insomnia. Soon thereafter, Ms. Hill was diagnosed with depression and prescribed anti-depressants.

Ultimately, Ms. Hill and the other employee had to go to Dr. Sturtz's home and plead with him to come to the clinic. When they made contact with Dr. Sturtz, they discovered he had been on a drinking binge and was in no condition to work. Ms. Hill and the other employee advised Dr. Sturtz that if his drinking continued to impact the clinic, they would quit. Dr. Sturtz begged Bruce not to leave and indicated he did not want Ms. Hill to quit. The situation improved for a short while, but again deteriorated when Dr. Sturtz became romantically involved with a person who enabled his alcoholism.

A week before Ms. Hill quit, Dr. Sturtz left the clinic between appointments and returned in an intoxicated state. After the appointment, Dr. Sturtz passed out in his office. Ms. Hill had to wake Dr. Sturtz at 4:45 p.m. to advise him that it was time to leave. At that point, Dr. Sturtz launched into a detailed discussion about his new love interest.

Dr. Sturtz's behavior became increasingly erratic. Ms. Hill advised Dr. Sturtz the clinic had been contacted by the pharmaceutical supplier that threatened to stop delivering drugs because the clinic was delinquent in paying its bill. Dr. Sturtz advised Ms. Hill not to pay the bill, that he would just get a different supplier. Ms. Hill learned that Dr. Sturtz had stopped taking his medication for bipolar disorder. Two days before she quit, Ms. Hill went out to the clinic parking lot in the morning to remind Dr. Sturtz of an appointment. When she approached Dr. Sturtz's truck she observed him drinking from a bottle of Black Velvet whiskey.

The last straw came on February 4. Ms. Hill had provided Dr. Sturtz with a check for cash from his personal checking account so that he could use the money to pay personal bills. Dr. Sturtz returned and asked for more money. Ms. Hill advised him there was not more money in the account. Dr. Sturtz launched into a tirade about how he had bounced more checks than Ms. Hill would ever write. Ms. Hill gave her notice that she was quitting, and left.

REASONING AND CONCLUSIONS OF LAW:

The question for the administrative law judge is whether the evidence in the record establishes that Ms. Hill's voluntary quit was for good cause attributable to the employer. It does.

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.

Since Ms. Hill quit the employment, she has the burden of proving that the quit was for good cause attributable to the employer. Iowa Code section 96.6(2).

Quits due to intolerable or detrimental working conditions are deemed to be for good cause attributable to the employer. See 871 IAC 24.25(4). However, before such a quit will be deemed for good cause attributable to the employer, the evidence must show that before the claimant resigned (1) the employer was on notice of the condition, (2) the employer was on notice that the claimant might quit if the condition was not addressed, and (3) the employer had a reasonable opportunity to address the claimant's legitimate concerns. 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 1996). 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).

The evidence in the record, set forth in the Findings of Fact, establishes, without question, that the conditions to which Ms. Hill was subjected were detrimental to her emotional and physical health and intolerable. See 871 IAC 24.25(4). It was unreasonable for Dr. Sturtz to delegate responsibility for his personal affairs to Ms. Hill, to place Ms. Hill in the position of having to cover for his alcohol-related absences from the clinic, or to subject Ms. Hill to stories of his sexual exploits with her predecessor. It was unreasonable for Dr. Sturtz to impose as a condition of Ms. Hill's employment her acquiescence in his rampant alcoholism and/or pattern of self-destruction. A reasonable person would have quit the employment under the circumstances.

The administrative law judge was allowed a glimpse into Dr. Sturtz's demeanor and behavior during the course of the hearing. Dr. Sturtz's refusal to provide responsive answers to the administrative law judge's questions, as well as his disruptiveness and belligerence in the face of the administrative law judge's further attempts to elicit responsive testimony, bolstered Ms. Hill's credibility.

Based on the evidence in the record and application of the appropriate law, the administrative law judge concludes that Ms. Hill's voluntary quit was for good cause attributable to the employer. According, Ms. Hill is eligible for benefits, provided she is otherwise eligible.

DECISION:

The March 8, 2005, reference 01, decision is affirmed. The claimant's voluntarily quit was for good cause attributable to the employer. The claimant is eligible for benefits, provided she is otherwise eligible.

jt/pjs