

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**AUDRA L MEYERS**  
Claimant

**APPEAL 17A-UI-13269-LJ-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ASSISTED LIVING CONCEPTS LLC**  
Employer

**OC: 11/26/17**  
**Claimant: Appellant (2)**

Iowa Code § 96.5(1) – Voluntary Quitting  
Iowa Admin. Code r. 871-24.26(3) – Quit Due to Unlawful Working Environment  
Iowa Admin. Code r. 871-24.26(4) – Quit Due to Intolerable Working Conditions

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the December 18, 2017 (reference 01) unemployment insurance decision that denied benefits based upon a determination that claimant voluntarily quit because she disliked her work environment. The parties were properly notified of the hearing. A telephone hearing was held on January 19, 2018. The claimant, Audra L. Meyers, participated. The employer, Assisted Living Concepts, LLC., did not participate in the hearing. Claimant's Exhibit A was received and admitted into the record without objection.

**ISSUE:**

Did claimant voluntarily quit the employment with good cause attributable to employer?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full-time, most recently as an RCP/medication aide, from September 13, 2016, until December 1, 2017, when she quit. Claimant had numerous issues working with Nikki, another RCP employed at the facility. Nikki made snide comments to claimant in front of residents, she behaved with hostility, and she acted immaturely.

Claimant also contends that the employer required her to break the law by backdating paperwork, disposing of medications, and lying to state inspectors. Claimant provided text message records showing employees were disposing of medications that other employees forgot to give to residents. According to claimant, these messages were sent and the medications were disposed of at the direction of Cally Wehrkamp, the supervisor. While continued work was available had claimant not quit her job, claimant's daughter was fired on the day she quit and claimant believes that her job was in jeopardy.

## REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant's separation was with good cause attributable to the employer. Benefits are allowed.

Iowa Code §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.

Iowa Admin. Code r. 871-24.26(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: ...

(3) The claimant left due to unlawful working conditions.

(4) The claimant left due to intolerable or detrimental working conditions.

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). "Good cause" for leaving employment must be that which is reasonable to the average person, not the overly sensitive individual or the claimant in particular. *Uniweld Products v. Indus. Relations Comm'n*, 277 So.2d 827 (Fla. Dist. Ct. App. 1973).

A notice of an intent to quit had been required by *Cobb v. Emp't Appeal Bd.*, 506 N.W.2d 445, 447-78 (Iowa 1993), *Suluki v. Emp't Appeal Bd.*, 503 N.W.2d 402, 405 (Iowa 1993), and *Swanson v. Emp't Appeal Bd.*, 554 N.W.2d 294, 296 (Iowa Ct. App. 1996). Those cases required an employee to give an employer notice of intent to quit, thus giving the employer an opportunity to cure working conditions. However, in 1995, the Iowa Administrative Code was amended to include an intent-to-quit requirement. The requirement was only added to rule 871-24.26(6)(b), the provision addressing work-related health problems. No intent-to-quit requirement was added to rule 871-24.26(4), the intolerable working conditions provision. Our supreme court recently concluded that, because the intent-to-quit requirement was added to rule 871-24.26(6)(b) but not 871-24.26(4), notice of intent to quit is not required for intolerable working conditions. *Hy-Vee, Inc. v. Emp't Appeal Bd.*, 710 N.W.2d 1 (Iowa 2005).

In this case, claimant provided uncontroverted testimony that the employer required her to break the law in order to remain employed. This was unethical and could have jeopardized claimant's future in her career field. The employer's actions created an intolerable work environment for claimant that gave rise to a good cause reason for leaving the employment. Benefits are allowed, provided claimant is otherwise eligible.

**DECISION:**

The December 18, 2017 (reference 01) unemployment insurance decision is reversed. Claimant quit the employment with good cause attributable to the employer. Benefits are allowed, provided she is otherwise eligible. Any benefits claimed and withheld on this basis shall be paid.

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Elizabeth A. Johnson  
Administrative Law Judge

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Decision Dated and Mailed

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