

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

GRETCHEN J MANNING
Claimant

APPEAL NO. 10A-UI-00745-LT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CORDIS WEBSTER INC
Employer

OC: 12/06/09
Claimant: Respondent (1)

Iowa Code § 96.5(1) – Voluntary Leaving

STATEMENT OF THE CASE:

The employer filed a timely appeal from the December 31, 2009 (reference 01) decision that allowed benefits. After due notice was issued, a telephone conference hearing was held on February 23, 2010. Claimant participated. Employer participated through then clinical manager, Michelle Gaulding. Claimant's Exhibit A was admitted to the record.

ISSUE:

The issue is whether claimant voluntarily left the employment with good cause attributable to the employer.

FINDINGS OF FACT:

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: Claimant most recently worked full time as a clinical account specialist and was separated from employment on December 4, 2009. She was hired to work exclusively in Iowa with 30 percent travel and the remainder in the office but during the summer of 2009 was assigned to work in Omaha and Lincoln, Nebraska almost exclusively. When she complained, Gaulding told her she must "deal with it." Claimant continued because she was also assured the situation would change when the company realignment took place and they had hired a person to cover Omaha, Lincoln, and Sioux City. Realignment did not take place as scheduled and the new hire did not relieve her from 100 percent travel. She was effectively required to leave home from Sunday afternoon through Friday night at 8:30 or 9:00 p.m. She did not leave because of performance issues but the performance issues were related to the constant travel. She never received a written performance evaluation from Gaulding.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left the employment with good cause attributable to the employer.

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.

871 IAC 24.26(4) and (23) provide:

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.

(23) The claimant left work because the type of work was misrepresented to such claimant at the time of acceptance of the work assignment.

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

The dramatic and apparent permanent increase in travel expectations created an intolerable work environment and a significant change in the terms of hire for claimant that gave rise to a good cause reason for leaving the employment. Benefits are allowed.

DECISION:

The December 31, 2009 (reference 01) decision is affirmed. The claimant voluntarily left her employment with good cause attributable to the employer. Benefits are allowed, provided the claimant is otherwise eligible.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/css