

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MABEL A SMITH
Claimant

APPEAL NO: 12A-UI-04992-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ARLINGTON PLACE OF RED OAK
Employer

OC: 03/04/12
Claimant: Appellant (2)

Iowa Code § 96.5(1) – Voluntary Quit

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's April 25, 2012 determination (reference 01) that disqualified her from receiving benefits and held the employer's account exempt from charge because she voluntarily quit her employment for reasons that do not qualify her to receive benefits. The claimant participated in the hearing. The employer did not respond to the hearing notice or participate in the hearing. The witness the claimant asked to be called for the hearing was not available. This witness called the Appeals Section later in the day, but the hearing was not reopened for her testimony.

During the hearing, Claimant Exhibits A and B were offered and admitted as evidence. Based on the evidence, the claimant's arguments, and the law, the administrative law judge finds the claimant qualified to receive benefits.

ISSUE:

Did the claimant voluntarily quit her employment for reasons that qualify her to receive benefits?

FINDINGS OF FACT:

The claimant started working for the employer in mid-July 2011. She worked 32 hours a week as a universal worker. She worked the 3 to 11 p.m. shift. During her shift, the claimant was responsible for caring for 24 to 26 residents. The claimant did not have anyone helping her. She not only answered call lights when residents needed or wanted something, she passed medications, she helped get residents ready for bed, she took dinner orders, prepared the dining room for dinner, served dinner to the residents, took dinner trays to residents who did not go to the dining room, cleaned the dining room after dinner, vacuumed and did general cleaning duties. The claimant carried a beeper with her at all times. When a resident beeped for assistance, the claimant had to answer the call within five minutes even if she was helping another resident.

The claimant had problems doing all the work the employer required her to do. The claimant and her supervisor asked the manager to schedule another person to work part of the claimant's

shift to help her provide the care residents required. The manager did not hire or schedule another person to help the claimant.

As a result of the work that needed to be done, the claimant did not get breaks or time to eat dinner. After the claimant worked for the employer she lost about 50 pounds in six months. (Claimant Exhibits A and B.) The claimant found it impossible to do all the work the employer required her to do within the time frame the employer allowed. When the manager would not hire or schedule anyone to help the claimant, in early February 2012 the claimant submitted her two-week resignation. The claimant's last day of work was February 17, 2012.

After the claimant resigned, corporate personnel looked into the situation and decided another person would also be scheduled to work 5 to 9 p.m. This was not unusual because other facilities had two people working 5 to 9 p.m. Even though the only reason the claimant quit was because the manager would not hire or schedule someone to work with her, the employer did not ask the claimant to rescind her resignation when another person started working 5 to 9 p.m.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quits employment without good cause attributable to the employer. Iowa Code § 96.5(1). When a claimant quits, she has the burden to establish she quit for reasons that qualify her to receive benefits. Iowa Code § 96.6(2). The law presumes a claimant quits with good cause when she leaves because of a substantial change in the employment. 871 IAC 24.26(1). The claimant accepted the job with the understanding she would have a dinner break so she could eat and would receive two other breaks during her shift. With all her work duties, the time constraints the claimant had to answer calls from 24 to 26 residents, the employer breached the employment contract by failing to provide the claimant with the necessary assistance so she could take breaks and have time to eat dinner. Even though claimant's supervisor asked the manager to hire or schedule someone to help the claimant during her shift, this was not done. Since the corporate personnel authorized another employee to help 5 to 9 p.m. supports the fact the claimant needed another person to help her provide the residents with the standard of care they required. The claimant established she quit for reasons that qualify her to receive benefits. As of March 4, 2012, the claimant is qualified to receive benefits.

DECISION:

The representative's April 25, 2012 determination (reference 01) is reversed. The claimant voluntarily quit her employment for reasons that qualify her to receive benefits. As of March 4, 2012, the claimant is qualified to receive benefits, provided she meets all other eligibility requirements. The employer's account is subject to charge.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs