

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

GLEND A GLASGOW-WIENEKE
Claimant

APPEAL NO. 12A-UI-09034-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

HCM INC
Employer

OC: 07/01/12
Claimant: Appellant (1)

Section 96.5(1) – Quit

STATEMENT OF THE CASE:

The claimant, Glenda Glasgow, filed an appeal from a decision dated July 24, 2012, reference 01. The decision disqualified her from receiving unemployment benefits. After due notice was issued a hearing was scheduled to be held by telephone conference call on August 21, 2012. Neither the claimant nor the employer participated and no hearing was held.

ISSUE:

The issue is whether the claimant quit work with good cause attributable to the employer.

FINDINGS OF FACT:

Glenda Glasgow-Wieneke was employed by HCM from March 20, 2010 until June 26, 2012 as a full-time dietary manager. She received a corrective action plan for poor work performance on June 4, 2012. Problems with the kitchen had been noted in the past three nursing quarterly reviews as falling below the employer's standards. She was given a list of 13 areas she needed to improve in the next 30 days and every 30 days thereafter. If "significant improvement" was not seen, further disciplinary action would be issued, up to and including discharge.

As of the review on June 18, 2012, 12 of the 13 areas had seen satisfactory improvement. But the claimant feared she was still going to be fired and tendered her resignation effective June 26, 2012.

REASONING AND CONCLUSIONS OF LAW:

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.

871 IAC 24.25(33) provides:

Voluntary quit without good cause. In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(33) The claimant left because such claimant felt that the job performance was not to the satisfaction of the employer; provided, the employer had not requested the claimant to leave and continued work was available.

The claimant had been given a performance improvement plan and she had met the requirements of all but one of the criteria outlined. There is no evidence the employer was dissatisfied with her progress or that discharge was imminent. The performance improvement plan said there would be a review in 30 days and *every 30 days thereafter* (emphasis added) and only then would discharge be a possibility if improvement was not accomplished. It appears substantial improvement was seen and only one area remained to be resolved. There is no evidence the employer had given the claimant the choice between being fired or resigning. To the contrary, this substantial improvement would certainly have pleased the employer.

The record establishes the claimant quit only because she feared she would be discharged but there is no evidence to support this conclusion. Under the provisions of the above Administrative Code section, she quit without good cause attributable to the employer and the claimant is disqualified.

DECISION:

The representative's decision of July 24, 2012, reference 01, is affirmed. Glenda Glasgow-Wieneke is disqualified and benefits are withheld until she has earned ten times her weekly benefit amount in insured work, provided she is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/pjs