

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ELIZABETH I MORSE**  
Claimant

**APPEAL NO. 09A-UI-05442-E2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**BLACK HAWK COUNTY**  
Employer

**OC: 03/08/09**  
**Claimant: Respondent (1)**

Section 96.5-1 – Voluntary Quit

**STATEMENT OF THE CASE:**

Employer filed an appeal from a decision of a representative dated April 2, 2009, reference 02, which held claimant eligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on May 28, 2009. Claimant participated. Employer participated by June Watkins, Human Resources Director. Exhibit One was admitted into evidence.

**ISSUE:**

The issue in this matter is whether claimant quit for good cause attributable to employer.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on March 4 2009. The claimant was a CNA and worked at the county facility Country View. The claimant had worked as a CNA for about four years. The claimant had difficulties with two other CNAs who worked on her shift. Those CNAs would use foul language and make disparaging remarks towards the claimant. The claimant talked to the director of nursing and the administrator about her problems with the co-workers. The claimant did not receive any positive response to her legitimate concerns and complaints. On March 4 she spoke to the Deloris Hall, the scheduler, about her concerns and told Ms. Hall she could not continue to work under such circumstances. Ms. Hall said she would speak to the director of nursing and administrator about her concerns and get back to her. The next day Ms. Hall left a message on the claimant's answering machine that the claimant had quit. The claimant did go and see June Watkins on March 25, 2009. Ms. Watkins said she would look into the matter. The administrator called the claimant shortly thereafter and asked the claimant to contact him about options for other work. The claimant had been terminated by this time.

**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 24.26(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:

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

A quit is a separation initiated by the employee. 871 IAC 24.1(113)(b). In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 698, 612 (Iowa 1980) and Peck v. EAB, 492 N.W.2d 438 (Iowa App. 1992). 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. See 871 IAC 24.25.

The claimant was subjected to disparaging remarks and the use of foul language by co-employees. She brought her concerns to her supervisors. No remedial action was taken. Under the facts presented, the claimant was working under intolerable and detrimental conditions. Her quit is attributable to the employer.

**DECISION:**

The decision of the representative dated April 2, 2009, reference 02, is affirmed. Unemployment insurance benefits are allowed, provided claimant is otherwise eligible.

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James Elliott  
Administrative Law Judge

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Decision Dated and Mailed

jfe/css