BEFORE THE
EMPLOYMENT APPEAL BOARD
Lucas State Office Building
Fourth floor
Des Moines, Iowa 50319

KRISTA P GODAT-BLASDELL Claimant and **REM IOWA COMMUNITY SVCS INC** Employer	**HEARING NUMBER:** 18BUI-07790 **EMPLOYMENT APPEAL BOARD DECISION**

N O T I C E

THIS DECISION BECOMES FINAL unless (1) a **request for a REHEARING** is filed with the Employment Appeal Board within **20 days** of the date of the Board's decision or, (2) a **PETITION TO DISTRICT COURT** IS FILED WITHIN **30 days** of the date of the Board's decision.

A REHEARING REQUEST shall state the specific grounds and relief sought. If the rehearing request is denied, a petition may be filed in **DISTRICT COURT** within **30 days** of the date of the denial.

SECTION: 96.5-1

D E C I S I O N

UNEMPLOYMENT BENEFITS ARE DENIED

The Claimant appealed this case to the Employment Appeal Board. All members of the Employment Appeal Board reviewed the entire record. A majority of the Appeal Board, one member dissenting, finds the administrative law judge's decision is correct. With the following modification, the administrative law judge's Findings of Fact and Reasoning and Conclusions of Law are adopted by the Board as its own. The administrative law judge's decision is **AFFIRMED** with the following **MODIFICATION**:

The majority adds the following legal analysis to the conclusions of law:

There are two possible bases for finding good cause for the quit. First, a change in contract of hire created by the change in ratio. Second, unsafe working conditions.

As with the Administrative Law Judge we find that the Claimant acquiesced in any change in contract of hire, even assuming that she had had a contract of employment that required the Employer to maintain a certain ratio. On the second basis of analysis we do understand that ordinarily one cannot acquiesce in unsafe working conditions. We do *not* find that the Claimant acquiesced in unsafe conditions. We find she acquiesced in any contract change and thus cannot allow benefits on a contract change theory. Furthermore we find that maintenance of specific staffing ratio was not shown to be a term of the contract of hire.

Turning to the detrimental conditions theory, we find that the proof does not establish that a reasonable person would find the conditions were unsafe. In detrimental working condition cases the "key question is what a reasonable person would have believed under the circumstances…" *O'Brien v. EAB*, 494 N.W.2d 660 (Iowa 1993). "Under the reasonable belief standard, it is not necessary to prove the employer violated the law, only that it was reasonable for the employee to believe so." *O'Brien v. EAB*, 494 N.W.2d 660, 662 (Iowa 1993). Under this standard the Claimant did not prove that is was reasonable to believe that the job environment was sufficiently detrimental that a reasonable person in that job would feel compelled to quit. We note that there is a certain level of risk associated with working at such employers. But if we found this alone to constitute good cause for quitting then all such workers could get benefits whenever they quit. For example, a cook cannot collect benefits if the cook quits because the cook does not like the heat in the kitchen where the level of heat is within the normal and expected conditions of the job. If the object-to condition inheres in the job, and the job conditions are not illegal, then normally those job conditions would not be good cause for quitting (barring some special situation such as aggravation of a medical condition). The difficulties the Claimant faced her final day were not shown to be due to the change in the staffing ratio. Further, the job conditions were not shown to be sufficiently detrimental that a reasonable person working the job that the Claimant was working would feel compelled to quit. This is true even when adding in the treatment by Ms. Guzman which is complained of by the Claimant.

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Ashley R. Koopmans

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James M. Strohman

DISSENTING OPINION OF KIM D. SCHMETT:

I respectfully dissent from the majority decision of the Employment Appeal Board. After careful review of the record, I would reverse the decision of the administrative law judge. In particular I find that the conditions of the final day were dangerous and that this danger was indeed attributable to the change in ratio. I would thus find that the Claimant quit for good cause.

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Kim D. Schmett

RRA/fnv