

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CARRIE J HARMON
Claimant

APPEAL NO. 13A-UI-05837-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

CARE INITIATIVES
Employer

OC: 04/21/13
Claimant: Respondent (1)

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Care Initiatives (employer) appealed a representative's May 9, 2013 decision (reference 01) that concluded Carrie Harmon (claimant) was eligible to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for July 1 and 8, 2013. The claimant was represented by Joanie Grife, Attorney at Law, and participated personally. The employer was represented by Lisa Harroff, Hearings Representative, and participated by Muriel Steffen, Administer; Maria Malag-McDaniel, Director of Nursing, and Judy Jochims, Registered Nurse.

ISSUE:

The issue is whether the claimant was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on August 31, 2012, as a full-time certified nursing assistant. In November 2012, the claimant made a confidential complaint to the director of nursing about a co-worker's conduct. After this the co-worker told the claimant that the director of nursing told her that it was the claimant who made the complaint and the director of nursing did not keep the claimant's identity confidential. The co-worker told others that the claimant filed the complaint and other co-workers treated the claimant poorly at work from that time on. The claimant complained but the co-workers' treatment did not change.

The claimant suffered a work-related injury in January 2013. Her physician allowed her to work with restrictions. Job duties that fit within those restrictions were posted so that staff and visitors could see. The director of nursing directed the claimant to perform duties outside of her restrictions. The claimant questioned the director of nursing about instructing her to perform work outside her restrictions but the instructions did not change.

On April 18, 2013, the director of nursing instructed the claimant to give showers. This was outside the claimant's restrictions. Later that day the claimant overheard co-workers talking badly about her for not helping make the beds, a task that was within the claimant's restrictions. The claimant quit work on April 18, 2013.

REASONING AND CONCLUSIONS OF LAW:

For the following reasons the administrative law judge concludes the claimant voluntarily quit work with good cause attributable to the employer.

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.

The law presumes a claimant has left employment with good cause when she quits because of intolerable or detrimental working conditions. 871 IAC 24.26(4). It would be reasonable for the employee to inform the employer about the conditions the employee believes are intolerable or detrimental and to have the employee notify the employer that she intends to quit employment unless the conditions are corrected. This would allow the employer a chance to correct those conditions before a quit would occur. However, the Iowa Supreme Court has stated that a notice of intent to quit is not required when the employee quits due to intolerable or detrimental working conditions. Hy-vee, Inc. v. Employment Appeal Board and Diyonda L. Avant, (No. 86/04-0762) (Iowa Sup. Ct. November 18, 2005). The claimant notified the employer she was being treated differently after the employer released her name and the claimant was working outside her restrictions. The claimant subsequently quit due to those conditions. The claimant is eligible to receive unemployment insurance benefits.

DECISION:

The representative's May 9, 2013 decision (reference 01) is affirmed. The claimant voluntarily left work with good cause attributable to the employer. Benefits are allowed.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/pjs