

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

CARLA S GRUNDEY
Claimant

APPEAL 15A-UI-06407-SC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

PELLA REGIONAL HEALTH CENTER
Employer

**OC: 05/17/15
Claimant: Appellant (1)**

Iowa Code § 96.5(2)a – Discharge for Misconduct
Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant filed an appeal from the May 29, 2015, (reference 01) unemployment insurance decision that denied benefits based upon the determination she voluntarily quit work without good cause attributable to the employer. The parties were properly notified about the hearing. A telephone hearing was held on July 10, 2015. Claimant Carla Grundey participated on her own behalf. Employer Pella Regional Health Center participated through Human Resources Team Leader Ashley Arkema and Director of Post-Acute Care Services Mary Jo Foster. Claimant's Exhibit A was received and admitted into the record without objection.

ISSUES:

Did claimant voluntarily leave the employment with good cause attributable to employer or did employer discharge claimant for reasons related to job misconduct sufficient to warrant a denial of benefits?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed part time as a home health certified nursing assistant beginning November 17, 2005, and was separated from employment on April 13, 2015. The claimant reported to Home Health Nursing Supervisor Erica Marvelli.

On March 3, 2015, the claimant sustained a workplace injury. The claimant could no longer work with clients as she was placed on light duty. The employer honored her restrictions. Just before her injury, the employer began providing services to a 280 pound male client. The claimant worked with him once and had concerns about the safety of the client and the employees sent to work with him. If he were a patient in the hospital, the hospital would have required two employees to assist in lifting him or working with him. However, at home, only one

employee was assigned to work with him as he resided with his parents. The claimant feared she was going to have to work with the client while on light duty due to the number of employees who were injured in the department.

On March 23, 2015, the claimant submitted her resignation to Director of Post-Acute Care Services Mary Jo Foster effective April 13, 2015. She explained she had safety concerns and there was low morale among her co-workers. Just before she submitted her resignation, the claimant heard a rumor that another employee was being “verbally abused” by Marvelli.

Foster asked the claimant about her safety concerns regarding the client. Based on the claimant's concerns, a physical therapist was sent to the client's home to conduct an assessment. The physical therapist and Marvelli then met with the claimant's work unit to discuss all of the ways to safely work with the client.

On March 26, 2015, the claimant met with Foster and Human Resources Team Leader Ashley Arkema to discuss her concerns with Marvelli's management. The claimant's concerns with Marvelli centered on her conduct which included cursing while on duty, the tone she used with team members, and speaking disrespectfully about team members. The claimant had not been subjected to that conduct; however, she had witnessed Marvelli speaking poorly about a team member on one occasion when she stopped in the office.

On April 1, 2015, Foster attended the claimant's physical therapy appointment. After this appointment, the claimant submitted a retraction of her resignation. On April 9, 2015, Foster stated in an email that she was accepting the claimant's resignation. The claimant worked through the end of her notice period.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant's separation from the employment was without good cause attributable to the employer. Benefits are denied.

Iowa Code § 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.

Iowa Admin. Code r. 871-24.25(21), (22) and (37) provide:

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:

(21) The claimant left because of dissatisfaction with the work environment.

(22) The claimant left because of a personality conflict with the supervisor.

(37) The claimant will be considered to have left employment voluntarily when such claimant gave the employer notice of an intention to resign and the employer accepted such resignation. This rule shall also apply to the claimant who was employed by an educational institution who has declined or refused to accept a new contract or reasonable assurance of work for a successive academic term or year and the offer of work was within the purview of the individual's training and experience.

Iowa Admin. Code r. 871-24.26(2) and (4) provide:

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:

(2) The claimant left due to unsafe working conditions.

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

An employer accepted resignation becomes a voluntary quit on that date. If the claimant requests to recant the resignation at a later date, and the employer refuses, the issue of the voluntary quit for good cause is based on what(if any) good cause existed at the time the resignation was tendered. *Langley v. EAB*, 490 N.W.2d 300 (Iowa App. 1992). Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). "Good cause" for leaving employment must be that which is reasonable to the average person, not the overly sensitive individual or the claimant in particular. *Uniweld Products v. Indus. Relations Comm'n*, 277 So.2d 827 (Fla. Dist. Ct. App. 1973).

The claimant argued she was working in an unsafe or intolerable working environment. However, she was never actually asked to violate her restrictions or work with the client while restricted. When the safety concerns regarding the client were brought to management's attention, the employer addressed them by doing an in-home assessment and conducting additional training. The claimant's argument that Marvelli's conduct created an intolerable work environment is undermined by the fact she requested to withdraw her resignation and continue working with Marvelli. The reasons given by the claimant for her decision to quit are related to her dissatisfaction with the work environment and personality conflicts with her supervisor. The claimant's decision to quit was not for a good cause reason attributable to the employer according to Iowa law. Benefits must be denied.

DECISION:

The May 29, 2015, (reference 01) unemployment insurance decision is affirmed. Claimant voluntarily left the employment without good cause attributable to the employer. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Stephanie R. Callahan
Administrative Law Judge

Decision Dated and Mailed

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