

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

ANNAMARIE FRACARO
811 E MADISON
MT PLEASANT IA 52641

PLEASANT MANOR CARE CENTER
c/o HERITAGE COMPUTER SERVICE
PO BOX 611
DES MOINES IA 50303

Appeal Number: 04A-UI-00094-HT
OC: 11/30/03 R: 04
Claimant: Appellant (2)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5-1 - Quit

STATEMENT OF THE CASE:

The claimant, Annamarie Fracaro, filed an appeal from a decision dated December 30, 2003, reference 01. The decision disqualified her from receiving unemployment benefits. After due notice was issued a hearing was held by telephone conference call on January 29, 2004. The claimant participated on her own behalf and with witnesses Dolly Waite, Tammy Swanke, and Sue Vetter. The employer, Pleasant Manor Care Center (Pleasant Manor), participated by Assistant Administrator Toni Johnson and Director of Nursing (DON) Becky Ogle.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Annamarie Fracaro was employed by Pleasant Manor from June 17, 2001 until December 2, 2003. She was a full-time CNA caring for the elderly.

Ms. Fracaro went on medical leave of absence on October 6, 2003, and was in the hospital until November 9, 2003. She presented a statement from her doctor to DON Becky Ogles the next day, stating she was still not released to return to work. On December 2, 2003, the claimant returned and gave a verbal resignation to the DON. Her doctor had recommended she quit because working around the elderly was too stressful and exacerbating her depression.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant is disqualified. The judge concludes she is not.

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.

Where illness or disease directly connected to the employment make it impossible for an individual to continue in employment because of a serious danger to health, termination of employment for that reason is involuntary and for good cause attributable to the employer even if the employer is free from all negligence or wrongdoing. Raffety v. IESC, 76 N.W.2d 787 (Iowa 1956). The claimant's job duties were no more onerous than that of any other CNA in a facility which cares for the elderly. However, due to her particular condition, her doctor found she could not continue to work in this capacity. Under these conditions, her resignation is not a disqualifying event.

DECISION:

The representative's decision of December 30, 2003, reference 01, is reversed. Annamarie Fracaro is qualified for benefits provided she is otherwise eligible.

bgh/kjf