

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MELISSA M FUNK
Claimant

APPEAL NO. 07A-UI-03123-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

LIBERTY SQUARE LLC
Employer

**OC: 02/11/07 R: 02
Claimant: Appellant (1)**

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated March 19, 2007, reference 01, that concluded she voluntarily quit employment without good cause attributable to the employer. A telephone hearing was held on April 11, 2007. The parties were properly notified about the hearing. The claimant participated in the hearing. Simone Schmitt participated in the hearing on behalf of the employer.

ISSUE:

Did the claimant voluntarily quit employment without good cause attributable to the employer?

FINDINGS OF FACT:

The claimant was hired by the employer to work full time as a certified medication aide January 3, 2006. Her job involved passing medication, supervising direct support staff, and performing other services as needed in the residential care facility. The direct support workers were not required to have any certification, could not pass medication, did not have any supervisory authority, and performed cleaning work and laundry work.

In February 2007, management announced once it had completed hiring licensed practical nurses, it was eliminating the position of medication aide and the medication aides would be required to perform the job duties of direct support workers. The claimant complained about the change in her job duties, but nothing was done to change the decision regarding the elimination of the certified medication aide position. The claimant was informed that she would have to perform the direct support worker position if she wanted to continue to work for the employer. The claimant's rate of pay of \$10.00 and full-time hours would not have changed. The claimant quit due to the change in her job duties.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant voluntarily quit employment without 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(1) 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:

(1) A change in the contract of hire. An employer's willful breach of contract of hire shall not be a disqualifiable issue. This would include any change that would jeopardize the worker's safety, health or morals. The change of contract of hire must be substantial in nature and could involve changes in working hours, shifts, remuneration, location of employment, drastic modification in type of work, etc. Minor changes in a worker's routine on the job would not constitute a change of contract of hire.

The employer substantially changed the claimant's job duties. The direct support worker position did not require certification, did not involve passing medications, did not involve any supervisory responsibility, and involved lesser-skilled work. The claimant objected to the change and quit after it was clear that the decision would stay the same. While the employer may have had a good reason for the change, the law looks at the whether the change was substantial, not whether there was justification for the change. The claimant quit with good cause attributable to the employer.

DECISION:

The unemployment insurance decision dated March 19, 2007, reference 01, is reversed. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/kjw