

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ROBERTA J GARRISON**  
Claimant

**APPEAL NO. 07A-UI-05954-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**GARY D ROTH DDS**  
Employer

**OC: 05/20/07 R: 03  
Claimant: Appellant (1)**

Section 96.5-1 - Voluntary Quit

**STATEMENT OF THE CASE:**

The claimant appealed an unemployment insurance decision dated June 6, 2007, reference 01, that concluded she voluntarily quit employment without good cause attributable to the employer. A telephone hearing was held on July 2, 2007. The parties were properly notified about the hearing. The claimant participated in the hearing. Gary Roth 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 worked for the employer as a dental assistant from January 2000 to May 2, 2007. Her supervisor was the owner of the practice, Gary Roth, DDS.

The claimant has been diagnosed as suffering from depression and bipolar disorder and has been treated for that condition by a medical doctor and mental health counselor. Her condition becomes unstable with stress and lack of sleep.

The claimant had a personality conflict with a co-worker, Marlene Mathias, who the claimant believed deliberately did things to upset the claimant. For example, on January 25, 2007, the claimant had posted a note in the X-ray processing room that stated that the fan should be kept running in the room because it was warm in there. Mathias took the sign down a couple of times during the day. When the claimant approached Mathias, Mathias told her that she was not going to leave the fan on in the room, and if the claimant wanted the fan on, the claimant would have to turn it on herself. This conversation made the claimant anxious to the extent that she felt she needed to leave work before the start of her shift. She saw a doctor that day. The doctor advised her to take the anti-anxiety medication three times per day instead of as needed.

On January 30, 2007, the claimant talked to Roth about what had happened. Roth responded that Mathias needed to retire but could not afford to. The claimant was dissatisfied with Roth's response but continued in employment. The claimant also brought complaints to Roth in a

meeting in mid-April, including complaints about Mathias's conduct, but Roth informed her that he did not believe Mathias was going to change.

On May 2, 2007, the claimant had caught some errors made by another employee in a treatment plan. As she was correcting the errors, Mathias commented to her that she was the only person in the clinic who knew how to do things right. The claimant considered the comment to be sarcastic and told Mathias to shut up. Mathias told her that the comment was intended as a compliment. The claimant told Mathias that she did not believe that and said Mathias was being a bitch. The conversation with Mathias was the last straw for the claimant, and she informed Roth that she could not take it any more and she was quitting. The claimant quit because she was unhappy with the work environment and believed it was aggravating her mental health condition.

The claimant was not advised to quit by a doctor and presented no medical evidence to the employer that the working environment was a hazard to her health. Prior to quitting employment, she did not inform Roth that she was going to quit unless her health problems were accommodated.

#### **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.

The unemployment insurance rules provide that an employee who leaves employment due to intolerable or detrimental working conditions have quit with good cause attributable to the employer. 871 IAC 24.26(4). While the case law has not established whether this is an objective or subjective standard, this case is a good example of why an objective standard is proper. While I am convinced the claimant considered the working conditions intolerable after Mathias made the comment about the claimant being the only one who knew how to do things right, I am not persuaded that a reasonable person under the circumstances would have considered the comment to be an insult or that the comment made conditions at work intolerable. In fact, the claimant's reaction in telling Mathias to shut up and calling her a bitch was far more offensive, even if Mathias's comment was a smart aleck remark, which I am not certain was the case. The evidence fails to establish the claimant quit due to working conditions that were intolerable or detrimental.

The unemployment insurance rules provide that a claimant is qualified to receive benefits if compelled to leave employment due to a medical condition attributable to the employment. The rules require a claimant: (1) to present competent evidence that conditions at work caused or aggravated the medical condition and made it impossible for the claimant to continue in employment due to a serious health danger and (2) to inform the employer before quitting of the work-related medical condition and that the claimant intends to quit unless the problem is corrected or condition is reasonably accommodated. 871 IAC 24.26(6)b. There is no competent medical evidence that conditions at work caused or aggravated a medical condition and made it impossible for her to continue in employment due to a serious health danger. She

did not inform the employer before quitting of the work-related medical condition and that she intended to quit unless the problem is corrected or condition is reasonably accommodated.

The evidence establishes that the claimant left employment because she had a personality conflict with a co-worker and was unhappy with the work environment, which under the unemployment insurance rules are not reasons showing good cause attributable to the employer for leaving employment. 871 IAC 24.25(6) and (21).

**DECISION:**

The unemployment insurance decision dated June 6, 2007, reference 01, is affirmed. The claimant is disqualified from receiving unemployment insurance benefits until she has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

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Steven A. Wise  
Administrative Law Judge

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Decision Dated and Mailed

saw/pjs