

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KARLA BRENNSCHEIDT
Claimant

APPEAL NO. 13A-UI-03555-LT

**ADMINISTRATIVE LAW JUDGE
DECISION**

COVENANT MEDICAL CENTER
Employer

**OC: 02/24/13
Claimant: Appellant (2)**

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant filed an appeal from the March 15, 2013 (reference 01) decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call on April 30, 2013. Claimant participated and was represented by Marty Denis, Attorney at Law. Employer did not respond to the hearing notice instruction and did not participate. Claimant's Exhibits A through F were received.

ISSUE:

Did claimant voluntarily quit the employment with good cause attributable to employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full-time as a clinical neuro-psychologist and rehabilitation psychologist and was separated from employment on February 22, 2013 when she quit. Her last day of work was January 16, 2013. Claimant is a Hindu. The director of rehabilitation services, Bob Johnson asked her to attend Catholic prayer meetings shortly after she started the employment. She objected. She filed a charge of discrimination with the Equal Employment Opportunity Commission (EEOC) on May 17, 2012. (Claimant's Exhibit A) The employer denied her request to work outside of the hospital part time ("moonlighting") performing services the hospital did not provide, as it allowed other employees to do. She filed an amended charge of discrimination alleging retaliatory discrimination on October 2, 2012. (Claimant's Exhibit B) She was then moved to a smaller, noisier office that impeded her ability to adequately perform her work duties. She complained to management of the hospital. (Claimant's Exhibit C) On January 16, 2013 she also complained to the employer, without response, that someone used her computer to search for pornography sites. (Claimant's Exhibit D) As a result of these issues she consulted with treating physician Carla Springer, M.D. who alluded to work cause/aggravation "migraine headaches, acute stress reaction, exposure to chronic and exceptional stress" and certified her for Family Medical Leave Act (FMLA) leave. (Claimant's Exhibits E, F) She was released to return to part-time work in late February 2013, and was released without restriction in early March 2013.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant voluntarily left the employment with good cause attributable to the employer.

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.

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.

A notice of an intent to quit had been required by *Cobb v. Emp't Appeal Bd.*, 506 N.W.2d 445, 447-78 (Iowa 1993), *Suluki v. Emp't Appeal Bd.*, 503 N.W.2d 402, 405 (Iowa 1993), and *Swanson v. Emp't Appeal Bd.*, 554 N.W.2d 294, 296 (Iowa Ct. App. 1996). Those cases required an employee to give an employer notice of intent to quit, thus giving the employer an opportunity to cure working conditions. However, in 1995, the Iowa Administrative Code was amended to include an intent-to-quit requirement. The requirement was only added to rule 871-24.26(6)(b), the provision addressing work-related health problems. No intent-to-quit requirement was added to rule 871-24.26(4), the intolerable working conditions provision. Our supreme court recently concluded that, because the intent-to-quit requirement was added to rule 871-24.26(6)(b) but not 871-24.26(4), notice of intent to quit is not required for intolerable working conditions. *Hy-Vee, Inc. v. Emp't Appeal Bd.*, 710 N.W.2d 1 (Iowa 2005).

The religious discrimination and retaliation created an intolerable work environment for claimant that gave rise to a good cause reason for leaving the employment, even apart from the related health conditions. Benefits are allowed.

DECISION:

The March 15, 2013 (reference 01) decision is reversed. The claimant voluntarily left her employment for no disqualifying reason. Benefits are allowed, provided the claimant is otherwise eligible.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/css