

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

REBECCA DEJONG

Claimant

APPEAL NO. 12A-UI-00448-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

KNOXVILLE COMMUNITY HOSPITAL INC

Employer

OC: 12/11/11

Claimant: Appellant (2)

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated January 9, 2012, reference 01, that concluded that she had voluntarily quit employment without good cause attributable to the employer. A telephone hearing was held on February 9, 2012. The parties were properly notified about the hearing. The claimant participated in the hearing with a witness, Chris DeJong. Jennifer Smith, Attorney at law, participated in the hearing on behalf of the employer with witnesses, Darci Fuller and Brian Sims.

ISSUE:

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

FINDINGS OF FACT:

The claimant worked full time for the employer as an emergency room (ER) nurse from February 11, 2011, to November 21, 2011. Her supervisor was the ER director.

On October 24, 2011, the claimant heard a conversation between two other ER employees. One of the employees made profane and derogatory remarks about the ER director and alleged the ER director was having an affair. A couple of days later the claimant reported what she had witnessed to the ER director and to the director of administrative services. The administrative service director said he would conduct an investigation.

During the shift changes, the claimant still had to interact with the two employees she had reported. She was concerned about retaliation so she audio recorded during the time of the shift change on October 30, 2011, without the knowledge of the employees. She later informed the ER director and the administrative services director about what she had done. The ER director agreed to try to be around at shift changes to prevent any potential problems.

On November 16, 2011, the administrative services director met with the claimant. He told her that he had concluded his investigation and everything was pointing back to her. He told claimant that he was recommending her termination to the employer's chief executive officer and she suspended her pending the outcome of a decision by the CEO. The administrative

services director asked the claimant if she had told a doctor that she had an open marriage. This allegation was untrue, but the claimant responded that he could not ask her that question because it was illegal. The director responded that it did not sound like her values lined up with the employer's values and he felt it was better if they parted ways. He also told her that if she resigned, the employer would only provide her dates of employment and attendance record, if asked for information about her employment. He told her that she could respond to his letter recommending her termination and the response would be given to the CEO. The reasons given for the termination recommendation were that she had been evasive during the investigation, she had spread the rumors about the ER director's affair, and she had recorded the shift change period without the employees' knowledge.

Initially, the claimant was going to rewrite a rebuttal letter and let the CEO decide, but on November 21, 2011, she submitted a rebuttal letter ending with her resignation. She resigned because she was suspended based on false information, the administrative services director had made an inappropriate inquiry about her marriage and impugned her values, and consequently she considered the working conditions intolerable.

REASONING AND CONCLUSIONS OF LAW:

The unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer or who are discharged for work-connected misconduct. Iowa Code § 96.5-1 and 96.5-2-a. I conclude the claimant voluntarily quit employment because the CEO was the person who would decide whether to discharge her or not and had not yet made a decision.

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.

The findings of fact show how I resolved the disputed factual issues in this case by carefully assessing of the credibility of the witnesses and reliability of the evidence and by applying the proper standard and burden of proof. The claimant's testimony was very credible, and I believe that she was suspended based on inaccurate information and the administrative services director's conversation with the claimant when as she described. I conclude this created intolerable working conditions under the unemployment insurance law and gave the claimant good cause to quit attributable to the employer.

DECISION:

The unemployment insurance decision dated January 9, 2012, 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

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