

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JUTUN TURNER
Claimant

APPEAL NO. 10A-UI-08188-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**CARMELITE SISTERS FOR THE AGED &
INFIRM KAHL HOME FOR AGED**
Employer

OC: 10-25-09
Claimant: Appellant (2)

Iowa Code § 96.5(1) – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the June 7, 2010, reference 04, decision that denied benefits. After due notice was issued, a hearing was held on July 26, 2010. The claimant did participate. The employer did participate through Beverly Haden, Weekend Nurse Supervisor, (representative) Heather Warren, Human Resources Assistant.

ISSUE:

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

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a certified nurse's aide working the weekend package (twenty-two and one-half hours per week) beginning April 14, 2010 through May 4, 2010 when she voluntarily quit.

On May 2, the claimant was responsible for caring for resident S. When she arrived at work she received report and went to check on resident S who she learned had fallen during the night. The claimant arrived in resident S's room and saw Nurse Brenda training the new nurse, Berlinda. She left the room to care for other patients. Resident S had a history of falling and as a result had a standing order that her bed be lowered to the ground when no one was with her. The claimant was responsible for caring for many residents. When the claimant left resident S's room, she went to put one of her other residents on the toilet and began to wash yet another resident. She was cleaning up another resident, when she was told by her coworker, Danielle, that resident S had fallen trying to get out of bed. The claimant covered up the resident she had been washing and went to resident S's room. When she arrived at resident S's room she discovered that when the two nurses (Brenda and Berlinda) had left the room, they left resident S's bed in the up position, instead of lowering it all the way to the floor as was required. The claimant was worried that the nurses would try to blame resident S's fall on her and became upset. The employer alleged that either the nurse in training or Nurse Brenda had told the claimant that resident S needed attention. However, there is no reason given by the

employer why the nurse's would leave resident S in a room alone with her bed in the up position. The claimant was not responsible for resident S's second fall as the nurses should have lowered the bed to the down position. The claimant had many residents to care for and could not be in every resident's room at all times. When the claimant learned of resident S's second fall, she told Brandi that she was going to report to management that the nurse's had left the bed in the up position. Claimant alleges that the nurse's began to cover for each other and indicate that it was the claimant's fault the resident had fallen. The claimant went to the assistant administrator, Sister Ann, and told her what had happened. Sister Ann told the claimant to write down her version of events. During the rest of the shift the claimant became increasingly upset believing that the other nurses were going to retaliate against her for turning in the two nurses who left resident S's bed in the up position. The claimant was then called up to the nurse's station where she was being written up for what she had said in the resident's room about who was responsible for the fall and that she was going to turn in the other nurses. The claimant went to see Sister Ann again in a meeting with Brandy and Ms. Hayden, where the nurses reported to Sister Ann that the claimant was belligerent and was being sent home. The claimant left the building very upset. She was called by the director of nursing on May 3. The director of nursing would not listen to the claimant's side of the story about what had occurred, but instead sided with the nurses who had admittedly left resident S's bed in the up position. The claimant felt the reprimand she received on May 2, as well as being sent home on May 2, when she had not left the bed in the up position was unjustified discipline and unfair treatment of her. Additionally, when the claimant tried to talk to the director of nursing on May 3, the director was not interested in hearing her side of the story. The claimant returned to work on May 4 and voluntarily quit due to the unfair discipline she had been given and her fear that continued work in such conditions would place her certified nurse's license in jeopardy.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left her 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.

The administrative law judge is persuaded that the claimant was unfairly disciplined for her report of the misconduct of two nurses. Under such circumstances it is understandable that the claimant would be upset. The claimant did not leave the bed in the up position and even if the administrative law judge were to conclude that she was told to go to the room, she was not in the room when the two nurses left. They should have followed the procedures and lowered the bed. The claimant was retaliated against for reporting the nurse's misconduct, by being written up by another nurse. The claimant sought help from management to no avail. The employer's

actions, that is the retaliatory discipline leveled against the claimant created an intolerable work environment for the claimant and is good cause attributable to the employer for the claimant quitting her employment. Benefits are allowed, provided the claimant is otherwise eligible.

DECISION:

The June 7, 2010, reference 04, decision is reversed. The claimant voluntarily left her employment with good cause attributable to the employer. Benefits are allowed, provided the claimant is otherwise eligible.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/css