

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KIMBERLY R GRISHAM
Claimant

APPEAL NO. 07A-UI-06955-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

MCKENZIE CHECK ADVANCE OF IA LLC
Employer

OC: 06-17-07 R: 03
Claimant: Respondent (1)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

The employer filed a timely appeal from the July 9, 2007, reference 01, decision that allowed benefits. After due notice was issued, a hearing was held on August 6, 2007. The employer participated through Brian Fausnaugh, Divisional Director of Operations. Claimant's Exhibit A was received.

ISSUE:

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

FINDINGS OF FACT:

Having reviewed the testimony and all of the evidence in the record, the administrative law judge finds: Claimant was employed as an assistant manager full time beginning July 5, 2006 through June 16, 2007 when she voluntarily quit.

The claimant quit because working with her manager, Jenny, created an intolerable work environment for her. The claimant's pre-existing seizure disorder is aggravated by Jenny bringing her personal problems to work and her frequent absences.

Jenny promised the claimant that she would be made an official full-time employee since she was working full time hours. By being placed on the payroll for full-time work, the claimant would qualify for bonuses not available to part-time employees and would be entitled to benefits like vacation pay, sick leave and holiday pay. The claimant saw Jenny fax in the paperwork to Mr. Fausnaugh to change her employee status. The claimant continued to question Jenny about why the change had not been made and Jenny told her that Mr. Fausnaugh was delaying on the paper work.

Jenny brought methamphetamine and methamphetamine paraphernalia into the work place in an effort to hide it from her boyfriend so he would stop using the drug. The claimant told her that was a poor idea since if the store were robbed the police would believe that the contraband belonged to the employees. Jenny was consistently missing work because of her boyfriend's addiction issues. In March and April of 2007 the claimant complained about the burden of

dealing with Jenny's personal problems to Mr. Fausnaugh. Mr. Fausnaugh spoke to Jenny but Jenny's behavior did not improve.

On June 14 Jenny became upset and threatened to kill herself. The claimant notified Mr. Fausnaugh because she needed assistance dealing with the issue and Mr. Fausnaugh called the police. The claimant was ill and needed to leave work, but remained anyway since Jenny was committed. The claimant quit the next day because she could no longer stand the stress of working with Jenny and her numerous personal problems that invaded the work place. The claimant was also tired of being promised holiday pay and benefits as well as a bonus program that never materialized.

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 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(3) 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:

(3) The claimant left due to unlawful working conditions.

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.

Jenny continually promised the claimant that her status would be changed to full time so she could receive benefits and bonuses. The changes never happened and it is clear it was because Jenny failed to act on her promises to the claimant or just lied to the claimant in order to keep her working without the promised benefits. Jenny's personal problems, while tragic, created an intolerable work environment for the claimant. The claimant was not required to act as Jenny's counselor and to cover for her work shortcoming while Jenny dealt with her boyfriend's addictions issues. The work environment created by Jenny for the claimant was intolerable and her leaving was with good cause attributable to the employer. Benefits are allowed, provided the claimant is otherwise eligible.

DECISION:

The July 9, 2007, reference 01, decision is affirmed. 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/pjs