

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ANGELINA S FLEMING**

Claimant

**APPEAL NO: 12A-UI-00305-ST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**RESIDENTIAL ALTERNATIVES OF IOWA  
WINDMILL MANOR**

Employer

**OC: 11/27/11**

**Claimant: Appellant (1-R)**

Section 96.5-1 – Voluntary Quit  
871 IAC 24.25(4) – Absent Without Notice  
Section 96.4-3 – Able and Available

**STATEMENT OF THE CASE:**

The claimant appealed a department decision dated January 6, 2012, reference 01, that held she voluntarily quit without good cause attributable to her employer on November 29, 2011, and benefits are denied. A telephone hearing was held on February 7, 2012. The claimant participated. Stacey Cremens, Administrator, and Kyle Kruchenberg, Assistant Administrator, participated for the employer.

**ISSUES:**

Whether the claimant voluntarily quit without good cause attributable to the employer.

Whether claimant is able and available for work.

**FINDINGS OF FACT:**

The administrative law judge having heard the testimony of the witnesses, and having considered the evidence in the record, finds: The claimant worked for the employer as a full-time C.N.A. from August 17, 2011 to November 29. She clocked out and left her work shift on November 29 due to back pain. She failed to call in or report for work thereafter. The employer was unable to contact claimant by telephone to learn why she stopped coming to work.

Claimant has not been released by a doctor to return to work as of the date of this hearing.

**REASONING AND CONCLUSIONS OF LAW:**

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 24.25(4) provides:

Voluntary quit without good cause. In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(4) The claimant was absent for three days without giving notice to employer in violation of company rule.

The administrative law judge concludes the claimant voluntarily quit without good cause attributable to her employer due to job abandonment on November 29, 2011.

While the claimant might have had a good reason for leaving employment on November 29, she failed to give the employer notice she not returning to work that is job abandonment.

Iowa Code section 96.4-3 provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in section 96.19, subsection 38, paragraph "b", unnumbered paragraph 1, or temporarily unemployed as defined in section 96.19, subsection 38, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

Since claimant states she has a back-health issue and she has not been released to return to work by a doctor, this matter is remanded to Claims for fact-finding.

**DECISION:**

The department decision dated January 6, 2012, reference 01, is affirmed. The claimant voluntarily quit without good cause due to job abandonment on November 29, 2011. Benefits are denied until the claimant requalifies by working in and being paid wages for insured work equal to ten times her weekly benefit amount, provided the claimant is otherwise eligible. The able and available issue is remanded.

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Randy L. Stephenson  
Administrative Law Judge

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Decision Dated and Mailed

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