

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**BARBARA J AHRENS**  
Claimant

**APPEAL NO: 11A-UI-09817-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CARE INITIATIVES**  
Employer

**OC: 01/02/11**  
**Claimant: Respondent (2/R)**

Iowa Code 96.5(1) – Voluntary Quit

**PROCEDURAL STATEMENT OF THE CASE:**

The employer appealed a representative's July 21, 2011 determination (reference 03) that held the claimant qualified to receive benefits and the employer's account subject to charge because she quit her employment for reasons that qualify her to receive benefits. The claimant participated in the hearing. David Williams, a representative with TALX, appeared on the employer's behalf. Cheryl Weber, the director of nursing, and Matt Rotert, the administrator, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is not qualified to receive benefits.

**ISSUE:**

Did the claimant voluntarily quit her employment for reasons that qualify her to receive unemployment insurance benefits?

**FINDINGS OF FACT:**

The claimant started working for the employer in April 2011. She worked as a full-time CNA on the night shift. The employer hired the claimant after implementing a new policy that increases the number of CNAs working on a shift. The employer previously had only one CNA scheduled with a nurse per shift. When the employer had one CNA working with a nurse, residents were timely and properly cared for. When the employer hired the claimant, they knew she had problems with her legs.

The claimant did not have any significant problems with her legs until the other night CNA went on medical leave. Starting on June 7, the claimant and a nurse were scheduled to work the night shift. The employer tried scheduling the claimant to work 12-hour shifts. After the claimant tried working a 12-hour shift, she told the director of nursing she could not work that long because of problems with her legs. The employer then scheduled the claimant to work eight-hour shifts again.

Since May 11, the claimant worked 27 days. Seven of these days she did not clock out for her 30-minute lunch break and six of these days she did not work with another CNA. The claimant worked 15 days in June. Sometime in June 2011, the claimant saw her physician who gave her

stronger medication for the pain she experienced in her legs. The claimant's physician did not advise the claimant to quit her employment or give her any work restrictions. In June 2011 when the claimant did not work with another CNA, she did not ask the employer for any accommodations.

On June 23, the claimant was in pain. She decided she could not physically do the work the employer required, told the charge nurse she was leaving and walked off the job. The next day the claimant notified management that she had quit effective immediately.

#### **REASONING AND CONCLUSIONS OF LAW:**

A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quits employment without good cause attributable to the employer. Iowa Code § 96.5(1). When claimant quits, she has the burden to establish she quit for reasons that qualify her to receive benefits. Iowa Code § 96.6(2).

There is no doubt the claimant's leg hurt and she was in pain. Since the claimant went to her doctor in June and received stronger pain medication, it is difficult to understand why the claimant did not ask for work restrictions or ask her doctor if she should resign. The law presumes a claimant voluntarily quits employment if she is compelled to leave because continued employment would seriously endanger her health. To receive benefits when there is a health issues, a claimant must show adequate health reasons for quitting and inform the employer she intends to quit if reasonable accommodations are not made for the claimant. 871 IAC 24.26(6)b. The claimant did not satisfy these requirements. Since the employer did not schedule her for 12-hour shifts after the claimant indicated she could not work that long, it is difficult to understand why the claimant did not talk to management to let them know if she was unable to take an uninterrupted 30-minute break, she may have to quit. The claimant knew what the job involved when she accepted the job. The claimant did not establish that she quit for reasons that qualify her to receive benefits. As of June 26, 2011, the claimant is not qualified to receive benefits.

An issue of overpayment or whether the claimant is eligible for a waiver of any overpayment for benefits she may have received since June 26, 2011, will be remanded to the Claims Section to determine.

#### **DECISION:**

The representative's July 21, 2011 determination (reference 03) is reversed. The claimant voluntarily quit her employment, but she quit for reasons that do not qualify her to receive benefits. The claimant is disqualified from receiving unemployment insurance benefits as of

June 26, 2011. This disqualification continues until she has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The employer's account will not be charged. The issue of overpayment or whether the claimant is eligible for a waiver of any overpayment for benefits she has received since June 26, 2011, is **Remanded** to the Claims Section to determine.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/pjs