

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JALYSE E HUNTER**  
Claimant

**APPEAL NO. 11A-UI-12114-H2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**COMMUNITY CARE INC**  
Employer

**OC: 06-26-11  
Claimant: Appellant (1)**

Iowa Code § 96.5(1) – Voluntary Leaving  
Iowa Code § 96.6(2) – Timeliness of Appeal

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the August 26, 2011, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on November 28, 2011. The claimant did participate. The employer did participate through Teresa Cali, Human Resources Generalist. Employer's Exhibit One was entered and received into the record. Department's Exhibit D-1 was entered and received into the record.

**ISSUES:**

Did the claimant file a timely appeal?

Did the claimant voluntarily quit her employment without 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 direct service professional full time initially then casual or part time beginning February 1, 2010 through July 20, 2010 when she voluntarily quit her employment. The claimant moved to the third shift on May 14, 2010 at her own request. At that time she notified Community Care that she had another job and would only be able to work casual status hours. The employer did not require that she move from full-time to casual status, she chose to do so. She continued to work through July 20, 2010 when she voluntarily quit. No management official told her she was being discharged. After July 20 the employer never heard from the claimant again, she abandoned her job. The claimant failed to meet with her supervisor to discuss performance issues or to report for her shifts. The employer did not discriminate against the claimant because she was pregnant. The claimant was not required to work in an unsafe environment.

The claimant faxed in her appeal letter in a timely manner but it was not received by Iowa Workforce Development.

## REASONING AND CONCLUSIONS OF LAW:

The first issue to be considered in this appeal is whether the claimant's appeal is timely. The administrative law judge determines it is.

Iowa Code § 96.6-2 provides:

2. Initial determination. A representative designated by the director shall promptly notify all interested parties to the claim of its filing, and the parties have ten days from the date of mailing the notice of the filing of the claim by ordinary mail to the last known address to protest payment of benefits to the claimant. The representative shall promptly examine the claim and any protest, take the initiative to ascertain relevant information concerning the claim, and, on the basis of the facts found by the representative, shall determine whether or not the claim is valid, the week with respect to which benefits shall commence, the weekly benefit amount payable and its maximum duration, and whether any disqualification shall be imposed. The claimant has the burden of proving that the claimant meets the basic eligibility conditions of section 96.4. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to section 96.5, except as provided by this subsection. The claimant has the initial burden to produce evidence showing that the claimant is not disqualified for benefits in cases involving section 96.5, subsection 10, and has the burden of proving that a voluntary quit pursuant to section 96.5, subsection 1, was for good cause attributable to the employer and that the claimant is not disqualified for benefits in cases involving section 96.5, subsection 1, paragraphs "a" through "h". Unless the claimant or other interested party, after notification or within ten calendar days after notification was mailed to the claimant's last known address, files an appeal from the decision, the decision is final and benefits shall be paid or denied in accordance with the decision. If an administrative law judge affirms a decision of the representative, or the appeal board affirms a decision of the administrative law judge allowing benefits, the benefits shall be paid regardless of any appeal which is thereafter taken, but if the decision is finally reversed, no employer's account shall be charged with benefits so paid and this relief from charges shall apply to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

The claimant filed an appeal in a timely manner but it was not received. Immediately upon receipt of information to that effect, a second appeal was filed. Therefore, the appeal shall be accepted as timely.

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left the employment without 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 24.25(27), (28) 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 § 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 § 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:

(27) The claimant left rather than perform the assigned work as instructed.

(28) The claimant left after being reprimanded.

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980). The claimant herself chose to go to casual status. She was not required to do so by the employer. She worked casual status until July 20, 2010 when she simply stopped showing up for work and refused to come into meet with the supervisor because she knew she was going to be reprimanded for her conduct. The claimant was not required to work in an unsafe environment nor was she treated any differently because she was pregnant. The claimant voluntarily quit her employment without good cause attributable to the employer. Benefits are denied

**DECISION:**

The August 26, 2011 (reference 01) decision is affirmed. The claimant voluntarily left her employment without good cause attributable to the employer. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

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Teresa K. Hillary  
Administrative Law Judge

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Decision Dated and Mailed

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