

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**CHRISTINE J SEARS**  
Claimant

**APPEAL NO. 12A-UI-09823-H2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**LUTHERAN SERVICES IN IOWA INC**  
Employer

**OC: 06-24-12**  
**Claimant: Appellant (1)**

Iowa Code §96.5(1)d – Voluntary Leaving/Illness or Injury

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the August 6, 2012, reference 02, decision that denied benefits. After due notice was issued, a hearing was held on September 7, 2012. The claimant did participate. The employer did participate through Debra Koestener, Program Supervisor.

**ISSUE:**

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 care coordinator full time beginning July 28, 2011 through June 21, 2012 voluntarily quit. The claimant sustained a non-work-related head injury in a car accident on February 8, 2012. She was off work for medical treatment until June 21, 2012. She returned to the employer and alleged at that time that she was physically and able to return to work. The employer offered to return the claimant to work at the same wages and at full-time hours, but performing different duties. The claimant would not return to work because she was taking narcotic pain medication and did not feel safe to drive children around which would have been required of her. The claimant did not establish that she was going to be demoted. An employer is not required to hold open a job for an employee who is absent due to a non-work-related illness or injury. The claimant was then asked to provide the employer certified information from her treating physician indicating she could safely return to work and could safely perform all of her job functions. The claimant was asked for the information repeatedly and when she did not comply was given a final notice to provide the information to the employer by June 21, 2012. She did not do so. Because she did not provide the requested medical release, the claimant was considered to have abandoned her job as a voluntary quit. It was reasonable for the employer to require the claimant to provide medical evidence of her ability to safely return to work in light of her return to work alleging she could perform all job duties, then her refusal to perform some of those job duties due to her use of narcotic pain medication. The employer gave the claimant ample opportunity to provide the required documentation. She was asked on May 3, and 25<sup>th</sup> during telephone conversations to provide the needed release from her

physician. She was sent a letter May 10, 2012 requesting the information that had been repeatedly requested of her verbally.

**REASONING AND CONCLUSIONS OF LAW:**

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 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(20), (27) 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:

(20) The claimant left for compelling personal reasons; however, the period of absence exceeded ten working days.

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

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 employer reasonably requested that the claimant provide medical certification that she was able to safely return to work after her head injury. She did not do so. The claimant attempted to return to work on March 7, but when given her job duties, refused to perform them indicating that the medication she was taking would not allow her to drive with others in the car. After that refusal it only makes sense that the claimant would be required to provide medical certification of her ability to work. The claimant was going to be given the same hourly rate of pay and full-time hours. She was put on notice that she would be considered a voluntary quit if she did not provide the medical certification. When she was given ample opportunity to provide the needed certification but did not do so, the employer considered her a voluntary quit on June 21, 2012. Under such circumstances the administrative law judge concludes the claimant voluntarily quit work by refusing to submit reasonable medical certification that she was safely and completely able to return to work. Her leaving was without good cause attributable to the employer and benefits are denied.

**DECISION:**

The August 6, 2012 (reference 02) 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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