

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LASHAWNA JONES

Claimant

APPEAL NO. 09A-UI-10122-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

FEJERVARY HEALTH CARE CENTER INC

Employer

Original Claim: 06-14-09

Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the July 13, 2009, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on July 30, 2009. The claimant did participate. The employer did participate through Diane Bajc, Director of Nursing, and was represented by Jerry Sander of TALX UC eXpress. Claimant's Exhibit A was received.

ISSUE:

Did the claimant voluntarily quit her employment without 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: The claimant was employed as a CNA, part-time, beginning August 8, 2008, through June 4, 2009, when she voluntarily quit.

The employer told the claimant that they would not accommodate any pregnancy-related work restrictions. The claimant was off work due to issues with her pregnancy in late May 2009. She was allowed to return to work after June 2, when she provided a work release from her physician saying she was able to return to work with no work restrictions. The claimant attended a mandatory in-service training on June 4 and thereafter stopped showing up or coming to work. The claimant was told that additional absences in the future could lead to her discharge. The claimant was not told she was discharged.

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 § 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) 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.

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). An employer is not required to accommodate work restrictions that result from pregnancy. The employer was justified in asking the claimant to provide a work release that indicated she was free to work without restrictions before putting her back to work. The claimant did provide the release and was allowed to return to work. The employer did not harass the claimant about her pregnancy, but did tell her that they would not allow her to work while pregnant unless she had no work restrictions. The claimant believed the employer was going to discharge her at some point in the future, so she quit. The possibility that an employer may discharge at some unknown point in the future is not good cause for quitting the employment. While claimant's decision to quit may have been based upon good personal reasons, it was not a good-cause reason attributable to the employer for leaving the employment. Benefits must be denied.

DECISION:

The July 13, 2009, 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.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/kjw