

IOWA WORKFORCE DEVELOPMENT  
Unemployment Insurance Appeals Section  
1000 East Grand—Des Moines, Iowa 50319  
DECISION OF THE ADMINISTRATIVE LAW JUDGE  
68-0157 (7-97) – 3091078 - EI

SHANNA R LITTERER  
714 – 7<sup>TH</sup> AVE  
CHARLES CITY IA 50616

U S A HEALTHCARE – MASON CITY LLC  
c/o THOMAS AND THORNGREN INC  
PO BOX 280100  
NASHVILLE TN 37228

JUDITH O'DONAHUE  
ATTORNEY AT LAW  
PO BOX 307  
CHARLES CITY IA 50616

Appeal Number: 05O-UI-12246-DT  
OC: 08/14/05 R: 02  
Claimant: Respondent (1)

**This Decision Shall Become Final**, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4<sup>th</sup> Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

U. S. A. Healthcare—Mason City, L.L.C. (employer) appealed a representative's September 21, 2005 decision (reference 01) that concluded Shanna R. Litterer (claimant) was qualified to receive unemployment insurance benefits after a separation from employment. There had been a prior hearing scheduled and a decision issued on the employer's appeal under 05A-UI-10136-CT, but after appeal to the Employment Appeal Board, this matter was remanded to the Appeals Section for a new hearing. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on December 20, 2005. The claimant participated in the hearing and was represented by Judith O'Donahue, attorney at law. The employer failed to respond to the hearing notice and provide a telephone number at which a representative or witness could be reached for the hearing and did not participate in the

hearing. Based on the evidence, the arguments of the claimant, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the claimant voluntarily quit for a good cause attributable to the employer?

FINDINGS OF FACT:

The claimant started working for the employer on December 11, 2000. Since approximately 2003, she worked full time as a certified nursing home administrator of the employer's Mason City, Iowa, long-term care nursing facility. After some discussion at the end of May 2005 regarding an offer to the claimant by a competitor, the employer made an offer of a higher paid position as the certified nursing home administrator of a skilled nursing facility in Newton, Iowa, which the claimant accepted. She began working at the Newton facility on June 20, 2005.

On August 15, 2005, the employer's regional manager confronted the claimant and announced that effective immediately, the claimant would no longer be the administrator of the Newton facility, but that the claimant would answer to the director of nursing who had served as the provisional administrator of the facility for approximately one week short of 12 months. The director of nursing was not a certified nursing home administrator. She had acted as the provisional nursing home administrator under a law that allows a nursing home to have a person who is uncertified act as the administrator for no more than 12 months.

The claimant protested to the regional manager that it would be illegal for her to be under the authority of an uncertified nursing home administrator, and that it further could jeopardize her own certification. The regional manager indicated that the claimant could accept the situation as presented, or she could leave. The claimant turned over her keys and left.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant voluntarily quit for 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 24.26(3), (4) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(3) The claimant left due to unlawful working conditions.

(4) The claimant left due to intolerable or detrimental working conditions.

The employer sought to require the claim to work under unlawful and detrimental working conditions. Benefits are allowed.

DECISION:

The representative's September 21, 2005 decision (reference 01) is affirmed. The claimant voluntarily quit for good cause attributable to the employer. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible.

ld/kjw