

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RITA D BRUNK
Claimant

APPEAL NO. 12A-UI-07946-VST

**ADMINISTRATIVE LAW JUDGE
DECISION**

LEXINGTON SQUARE LLC
Employer

OC: 06/03/12
Claimant: Appellant (1)

Section 96.5-1—Voluntary Quit

STATEMENT OF THE CASE:

The claimant filed an appeal from a decision of a representative dated June 26, 2012, reference 01, which held that the claimant was ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on August 1, 2012.

ISSUE:

Whether the claimant was discharged for misconduct.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witnesses and having considered all of the evidence in the record, makes the following findings of fact:

The claimant worked for the employer as a full-time licensed practical nurse. The claimant was hired on June 12, 2009. Her last day of work was April 23, 2012. The claimant was arrested on April 23, 2012. She spent 12 days in jail.

REASONING AND CONCLUSIONS OF LAW:

871 IAC 24.25(16) 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:

(16) The claimant is deemed to have left if such claimant becomes incarcerated.

The evidence established that the claimant was arrested on April 23, 2012, and was incarcerated for 12 days. Iowa law states that an individual who is incarcerated and unable to come to work is considered to have voluntarily quit his or her job without good cause attributable to the employer. Benefits are therefore denied.

DECISION:

The representative's decision dated June 26, 2012, reference 01, is affirmed. Unemployment insurance benefits shall be withheld until the claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Vicki L. Seeck
Administrative Law Judge

Decision Dated and Mailed

vls/kjw