

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ANNE E ABBOTT**  
Claimant

**APPEAL NO. 13A-UI-09418-NT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**JACKSON RECOVERY CENTERS INC**  
Employer

**OC: 07/14/13**  
**Claimant: Respondent (2-R)**

Section 96.5-2-a – Discharge  
Section 96.3-7 – Benefit Overpayment

**STATEMENT OF THE CASE:**

Jackson Recovery Centers, Inc. filed a timely appeal from a representative's decision dated August 12, 2013, reference 01, which held claimant eligible to receive unemployment insurance benefits. After due notice was provided, a telephone hearing was held on September 19, 2013. Although duly notified, the claimant did not respond to the notice of hearing and did not participate. The employer participated by Ms. Heather Cichion, Hearing Representative, and witnesses: Ms. Merna Keittes, Director of Human Resources, and Ms. Barb Jaminet, Supervisor.

**ISSUE:**

The issue is whether the claimant left employment with good cause attributable to the employer.

**FINDINGS OF FACT:**

Having considered the evidence in the record, the administrative law judge finds: The claimant was most recently employed by the captioned employer from June 18, 2012 until September 25, 2012 when she voluntarily quit her job. Ms. Abbott was employed as a part-time licensed practical nurse and was paid by the hour. Her immediate supervisor was Ms. Jaminet.

Ms. Abbott last worked for Jackson Recovery Centers, Inc. on September 25, 2012. Prior to the claimant's next scheduled work day, Ms. Abbott sent a voice mail to the company's Human Resource Department indicating that she was quitting employment and that her final day of work was September 25, 2012. After receiving this voice mail, Ms. Keittes contacted the claimant's supervisor and informed the supervisor that Ms. Abbott had quit her employment. At that time the supervisor indicated that Ms. Abbott had been scheduled to attend a performance meeting with Ms. Jaminet on September 27, 2012. At the time Ms. Abbott resigned her position she had not been discharged by the employer or suspended or informed that her employment would come to an end. Work continued to be available to Ms. Abbott.

The employer did participate in the fact finding in this matter providing a witness and detailed information of the claimant's separation.

**REASONING AND CONCLUSIONS OF LAW:**

The first question before the administrative law judge is whether the claimant was discharged from her employment or whether she voluntarily quit. The evidence in the record clearly establishes the claimant voluntarily quit ongoing employment. The next question is then whether the claimant quit employment with good cause attributable to the employer. She did not.

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(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 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:

(28) The claimant left after being reprimanded.

871 IAC 24.25(29) provides:

(29) The claimant left in anticipation of a layoff in the near future; however, work was still available at the time claimant left the employment.

The claimant has the burden of proving that the voluntary quitting was for good cause attributable to the employer. Iowa Code section 96.6(2). An individual who voluntarily leaves their employment must first give notice to the employer of the reason for quitting in order to give the employer an opportunity to address or resolve the complaint. Cobb v. Employment Appeal Board, 506 N.W.2d 445 (Iowa 1993).

In this matter the evidence in the record establishes that Ms. Abbott quit her employment without advance notice to the employer by leaving a voice mail message stating that her last day of work was September 25, 2012. Work continued to be available to the claimant at the time that she quit employment. Claimant was scheduled to meet with her supervisor regarding performance issues approximately two days later but quit before the meeting. At the time the claimant chose to leave ongoing employment she was not the subject of a disciplinary action or

suspension and had not been told that she would be terminated from employment. The administrative law judge concludes based upon the evidence in the record that the claimant left employment without good cause that was attributable to the employer. Unemployment insurance benefits are withheld.

Because the claimant has been deemed ineligible for benefits, any benefits the claimant has received as the employer participated in the fact-finding conference, the claimant is liable to repay the unemployment insurance benefits received and determined to be an overpayment. The issue of the amount of the claimant's overpayment of benefits is remanded to the Claims Division for determination.

**DECISION:**

The representative's decision dated August 12, 2013, reference 01, is reversed. Claimant left employment without good cause that was attributable to the employer. Unemployment insurance benefits are withheld. The issue of the amount of the claimant's overpayment of benefits is remanded to the Claims Division for determination.

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Terence P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

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