

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Blank began working for Five Star Quality Care, Inc. on May 30, 2003. She was employed full time as a certified nursing assistant. On or about August 1, 2005, Ms. Blank gave written notice that she was quitting and that August 15 would be her last day at work. She was quitting to move out of town. The employer intended to allow her to work out her notice period.

Ms. Blank reported to work on August 4. Because she was not feeling well, she left work and went to the hospital. Her supervisor was not at work yet. Therefore, Ms. Blank notified the night charge nurse that she was leaving. Ms. Blank did not thereafter return to work or notify the employer of her intentions. She was scheduled to work August 5, 6, and 7. She did not call the employer on any of those dates. Continued work would have been available until August 15, 2005 if Ms. Blank had continued reporting for work.

Ms. Blank has been paid a total of \$767.00 in job insurance benefits since filing her claim effective July 31, 2005. She was paid benefits for the weeks ending August 7, August 13, and August 20, 2005.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Ms. Blank was separated from employment for any disqualifying reason. She had given notice that August 15, 2005 would be her last day of work. If an individual is discharged prior to the effective date of resignation, benefits are allowed from the last day worked until the effective date of resignation. See 871 IAC 24.25(38). The evidence establishes that Ms. Blank was not discharged by the employer prior to the effective date of her resignation. The employer fully intended to allow her to work until August 15 and had her on the schedule to work. It was Ms. Blank's choice not to continue working until August 15.

Ms. Blank contended that she believed she had been discharged because her name was not on the daily schedule to work August 5. She acknowledged that she was on the master schedule to work. She made no real effort to speak with the employer to determine what her status was. Moreover, the administrative law judge found the employer's testimony to be credible in stating that Ms. Blank was, in fact, on the daily schedule to work August 5.

The administrative law judge concludes from all of the evidence that Ms. Blank initiated the separation that occurred on August 5, 2005. Therefore, the separation is considered a quit. The evidence does not establish any good cause attributable to the employer for the August 5, 2005 quit. The same is true of the resignation that was to be effective August 15, 2005. Ms. Blank was quitting to move out of town. Where an individual quits employment to move to a different locality, the separation is presumed to be without good cause attributable to the employer. See 871 IAC 24.25(2)

For the reasons stated herein, the administrative law judge concludes that Ms. Blank was not entitled to job insurance benefits effective July 31, 2005. She has received benefits since filing her claim. Based on the decision herein, the benefits received now constitute an overpayment and must be repaid. Iowa Code section 96.3(7).

DECISION:

The representative's decision dated August 24, 2005, reference 01, is hereby reversed. Ms. Blank voluntarily quit her employment effective August 5, 2005 for no 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 job insurance benefit amount, provided she satisfies all other conditions of eligibility. Ms. Blank has been overpaid \$767.00 in job insurance benefits.

cfc/kjw