

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JACQUELYN J FRITS
Claimant

APPEAL NO. 09A-UI-00078-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CARE INITIATIVES
Employer

OC: 11/30/08 R: 01
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Jacquelyn Frits filed an appeal from a representative's decision dated December 30, 2008, reference 01, which denied benefits based upon her separation from Care Initiatives. After due notice was issued, a hearing was held by telephone on January 15, 2009. Ms. Frits participated personally. The employer participated by Lynn Corbeil, Attorney/Hearing Representative and witnesses, Linda Lee and Amanda Schiltz.

ISSUE:

At issue in this matter is whether the claimant quit her employment for good cause attributable to the employer by failing to report or provide notification to the employer for three or more consecutive workdays.

FINDINGS OF FACT:

The administrative law judge having heard the testimony and considered all of the evidence in the record, finds: The claimant began her employment with Care Initiatives in December 2005. Ms. Frits worked as a full-time dietary cook and she was paid by the hour. The claimant's immediate supervisor was Amanda Schiltz.

Ms. Frits was separated from her employment when the employer reasonably concluded that the claimant had chosen to voluntarily quit employment after Ms. Frits had failed to report for scheduled work or provide any notification to the employer regarding her impending absences for three or more consecutive workdays.

Ms. Frits had called in on December 1, 2008 indicating that she would be absent the following day, December 2, 2008, because of transportation problems. The claimant was reminded that she was scheduled to work and that a mandatory in-service training would be held on December 3, 2008. Although aware that she was scheduled to work, Ms. Frits did not report for work and provided no notification to the employer that she would be absent on December 3, 4 and December 8, 2008. After the claimant had failed to report to work and had not provided

any notification to the employer for an extended period, the employer reasonably concluded that the claimant had relinquished her position with Care Initiatives.

The claimant at this time was experiencing some personal problems and was relocating to a different geographic location, although she had been offered temporary living accommodations near the work facility by her immediate supervisor.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence in the record establishes that Ms. Frits voluntarily left her employment by failing to report for scheduled work and providing no notification for three or more consecutive workdays. It does.

The evidence in the record establishes that Ms. Frits called in on December 1, 2008 reporting that she would be absent the following day, December 2, 2008. The claimant was reminded that she was scheduled to work the following workday and was expected to attend an in-service training session. Although aware that she had been scheduled Ms. Frits did not report for work on December 3, 4 or December 8, 2008 and provided no notification to the employer that she would be absent. When the claimant had failed to report for an extended period of time and had provided no notification to the employer, the employer reasonably concluded that the claimant had chosen to quit her employment.

Under the provisions of the Iowa Employment Security Act employees who fail to report for scheduled work for three or more consecutive workdays and fail to provide notification to the employer are presumed to have voluntarily quit their employment. The claimant's reasons for leaving her employment with Care Initiatives were not directly related to her work but were related to personal considerations and the claimant's decision to relocate to a different geographic area. These reasons are not attributable to the employer and thus disqualifying under the provisions of the law.

871 IAC 24.25(4) 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:

(4) The claimant was absent for three days without giving notice to employer in violation of company rule.

For the above-stated reasons the administrative law judge concludes that the claimant voluntarily quit employment for reasons not attributable to the employer. Unemployment insurance benefits are withheld.

DECISION:

The representative's decision dated December 30, 2008, reference 01, is affirmed. The claimant voluntarily quit employment for reasons not attributable to the employer. Unemployment insurance benefits are withheld until the claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, providing that she is otherwise eligible.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

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