

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

ARLETA J BISHOP
3360 – 260TH AVE
KEOKUK IA 52632

DONNELLSON HEALTH CTR INC
PO BOX 250
DONNELLSON IA 52625

Appeal Number: 04A-UI-11718-HT
OC: 10/03/04 R: 04
Claimant: Appellant (5)

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, 4th 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.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5-1 - Quit

STATEMENT OF THE CASE:

The claimant, Arleta Bishop, filed an appeal from a decision dated October 25, 2004, reference 01. The decision disqualified her from receiving unemployment benefits. After due notice was issued a hearing was held by telephone conference call on November 24, 2004. The claimant participated on her own behalf. The employer, Donnellson Health Center, Inc. (Donnellson), participated by Administrator Miriam Johnson and Director of Nurses Lynn Jones.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Arleta Bishop was employed by Donnellson from

February 18, 1990 until October 1, 2004. She was a full-time certified nurse assistant and rehabilitation aide.

Ms. Bishop received a written warning and three-day suspension on September 30, 2004. She was to serve her suspension on October 1, 5 and 6, 2004. However, she was scheduled for the weekend on October 2 and 3, 2004, and she knew she was to work those two days. On October 1, 2004, the claimant called Administrator Miriam Johnson and said she was quitting because she felt she was being harassed by one of the nurses. The administrator attempted to talk her out of it, offering her another shift or work in another facility so she would not have to work with the nurse in question. The claimant declined.

Ms. Johnson urged the claimant not to quit because she was a valued employee with a lot of seniority. The claimant did not commit herself one way or the other, but was then no-call/no-show for her scheduled shifts on October 1 and 2, 2004. When she called Ms. Johnson on October 6, 2004, she asked if she still had a job. The administrator told her she had quit by not working her scheduled shifts over the weekend.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant is disqualified. The judge concludes she is.

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.

The claimant maintains she was discharged but the record does not support this contention. She notified the employer she was quitting and at no time did she notify anyone she had changed her mind and was revoking her resignation. She assumed the administrator would take care of her shifts over the weekend but there is nothing to indicate Ms. Bishop specifically stated she would not be in on those days or that she requested Ms. Johnson to find someone to cover her shifts. The claimant's assumption that she had notified the employer she would not be in to work is not supported by the recounting of the exchange she had with the administrator.

The claimant's decision to quit was based on her belief she was being treated unfairly and was harassed by one of the nurses. It appears the first time she notified the employer of this was on October 1, 2004, when she quit. The employer offered her two solutions, which she declined. Donnellson properly addressed the claimant's concerns but the offered remedy was refused and the administrative law judge must conclude the claimant's decision to quit was without good cause attributable to the employer. She is disqualified.

DECISION:

The representative's decision of October 25, 2004, reference 01, is modified without effect. Arleta Bishop voluntarily quit without good cause attributable to the employer and she is disqualified from receiving unemployment benefits until she has earned ten times her weekly benefit amount, provided she is otherwise eligible.

bgh/pjs