

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ALEXIS A WILLIAMS**  
Claimant

**APPEAL NO. 11A-UI-03893-HT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**WESLEY RETIREMENT SERVICES INC**  
Employer

**OC: 02/13/11  
Claimant: Respondent (2-R)**

Section 96.5(1) – Quit

**STATEMENT OF THE CASE:**

The employer, Wesley Retirement Services, Inc. (Wesley), filed an appeal from a decision dated March 18, 2011, reference 01. The decision allowed benefits to the claimant, Alexis Williams. After due notice was issued, a hearing was held by telephone conference call on April 21, 2011. The claimant participated on her own behalf. The employer participated by Human Resources Director Betty Stone and Care Coordinator Jennifer King.

**ISSUE:**

The issue is whether the claimant quit work with good cause attributable to the employer.

**FINDINGS OF FACT:**

Alexis Williams was employed by Wesley from May 28, 2008 until February 16, 2011 as a part-time home health aide. Throughout the course of her employment, Ms. Williams had several conflicts with her supervisor, Jennifer King, when she had been written up for attendance.

On February 14, 2011, Ms. Williams contacted Ms. King and said she would not be coming to work because she did not want to go to a certain client's home. Ms. King said she would remove that client from her schedule but the claimant would still have to come to work to see her other clients, and a new client would be substituted for the one being removed. The supervisor then said Ms. Williams would have to come to the office that day because they needed to talk and she would also be written up.

After hanging up, Ms. Williams decided to quit but did not notify the employer so another worker could be assigned to her clients. She was no-call/no-show to work the rest of that day and on February 15 and 16, 2011. After three days of no-call/no-show, the employer considered her a voluntary quit.

Alexis Williams has received unemployment benefits since filing a claim with an effective date of February 13, 2011.

## REASONING AND CONCLUSIONS OF LAW:

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(21), (22), and (28) provide:

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:

(21) The claimant left because of dissatisfaction with the work environment.

(22) The claimant left because of a personality conflict with the supervisor.

(28) The claimant left after being reprimanded.

The claimant quit because of a personality conflict with her supervisor, as well as being displeased about being written up and the clientele generally. It is understandable that certain clients in these circumstances would be difficult to deal with, but that is an intrinsic part of the job.

In addition, the claimant was no-call/no-show to work for three days, which is considered a voluntary quit without good cause attributable to the employer under 871 IAC 24.25(4). The record establishes the claimant's resignation was without good cause attributable to the employer and she is disqualified.

Iowa Code section 96.3-7, as amended in 2008, provides:

7. Recovery of overpayment of benefits.

a. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

b. (1) If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable

employers, notwithstanding section 96.8, subsection 5. However, provided the benefits were not received as the result of fraud or willful misrepresentation by the individual, benefits shall not be recovered from an individual if the employer did not participate in the initial determination to award benefits pursuant to section 96.6, subsection 2, and an overpayment occurred because of a subsequent reversal on appeal regarding the issue of the individual's separation from employment. The employer shall not be charged with the benefits.

(2) An accounting firm, agent, unemployment insurance accounting firm, or other entity that represents an employer in unemployment claim matters and demonstrates a continuous pattern of failing to participate in the initial determinations to award benefits, as determined and defined by rule by the department, shall be denied permission by the department to represent any employers in unemployment insurance matters. This subparagraph does not apply to attorneys or counselors admitted to practice in the courts of this state pursuant to section 602.10101.

The claimant has received unemployment benefits to which she is not entitled. The question of whether the claimant must repay these benefits is remanded to the UIS division.

**DECISION:**

The representative's decision of March 18, 2011, reference 01, is reversed. Alexis Williams is disqualified and benefits are withheld until she has earned ten times her weekly benefit amount, provided she is otherwise eligible. The issue of whether the claimant must repay the unemployment benefits is remanded to UIS division for determination.

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Bonny G. Hendricksmeier  
Administrative Law Judge

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Decision Dated and Mailed

bgh/kjw