

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JULIE SWALWELL
Claimant

APPEAL NO: 09A-UI-05703-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

BAXTER CARE LLC
Employer

OC: 03-15-09
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the April 8, 2009, reference 01, decision that denied benefits. After due notice was issued, a telephone hearing was held before Administrative Law Judge Julie Elder on May 7, 2009. The claimant participated in the hearing. Stephanie Morris, Administrator, participated in the hearing on behalf of the employer.

ISSUE:

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

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time CNA for Baxter Health Care Center from January 13, 2002 to March 10, 2009. On February 25, 2009, the claimant became upset about her hours. She had been switched from days to nights approximately three months earlier because of excessive absenteeism on the day shift and failing to properly report her absences. She had been asking the employer to move her back to days but the employer had not done so and as a result the claimant submitted her two-week resignation notice February 25, 2009. The claimant then changed her mind and tried to rescind her resignation but the employer told her it already accepted it and would not let her return to work.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left her employment without good cause attributable to the employer.

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.

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. 871 IAC 24.25. Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3),(4). Leaving because of dissatisfaction with the work environment is not good cause. 871 IAC 24.25(1). The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code section 96.6-2. The claimant gave notice of her intention to quit and the employer accepted it. She tried to rescind her resignation but the employer refused. The Court of Appeals has agreed that separations of this nature are considered voluntary quits. The claimant was moved to nights as a disciplinary action because of her attendance and failure to properly report her absences on the day shift. She was upset because the employer had not yet moved her back to the day shift and consequently submitted her resignation which the employer accepted. The claimant has not demonstrated that her leaving was for good cause attributable to the employer as defined by Iowa law. Therefore, benefits are denied.

DECISION:

The April 8, 2009, reference 01, decision is affirmed. The claimant voluntarily left her employment without 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 benefit amount, provided she is otherwise eligible.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

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