

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

STEVEN R HARRIS
Claimant

APPEAL NO. 13A-UI-03660-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**MARTIN LUTHER HOME CORP
LUTHER MANOR**
Employer

OC: 02/24/13
Claimant: Appellant (4)

Section 96.5(1) – Quit

STATEMENT OF THE CASE:

The claimant, Steven Harris, filed an appeal from a decision dated March 22, 2013, reference 03. The decision disqualified him from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on April 30, 2013. The claimant participated on his own behalf. The employer, Luther Manor, participated by Human Resources Director Zoe Coyss.

ISSUE:

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

FINDINGS OF FACT:

Steven Harris was employed by Luther Manor from August 30, 2011 until May 11, 2012 as a full-time nurse working the overnight shift. He was on medical leave of absence from March 8 through April 13, 2012, and returned to work for three days then called in absent for every shift after that.

Human Resources Zoe Coyss and DON Marcy Schmidt met with Mr. Harris on May 8, 2012, about his job. He was told another nurse had been hired for the overnight shift because he had been gone so long they needed coverage. He stated he was willing to work the evening shift beginning at 2:00 p.m. and the employer put him on the schedule for the next day. The three of them signed a document outlining the agreement.

Mr. Harris was no-call/no-show to work May 9, 10 and 11, 2012, and was considered a voluntary quit.

Steven Harris filed a claim for unemployment benefits with an effective date of February 24, 2013. His weekly benefit amount is \$396.00. The records of Iowa Workforce Development indicate he earned at least ten times this amount from subsequent employment prior to filing his claim.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5-1-g 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. But the individual shall not be disqualified if the department finds that:

g. The individual left work voluntarily without good cause attributable to the employer under circumstances which did or would disqualify the individual for benefits, except as provided in paragraph "a" of this subsection but, subsequent to the leaving, the individual worked in and was paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

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.

The claimant is considered a voluntary quit without good cause attributable to the employer by being no-call/no-show to work after May 8, 2012. But he has requalified by earning ten times his weekly benefit amount subsequent to this separation.

DECISION:

The representative's decision of March 22, 2013, reference 03, is modified in favor of the appellant. Steven Harris is qualified for benefits, provided he is otherwise eligible. The account of Luther Manor will not be charged for benefits paid to the claimant.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/css