

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ASHLEY M YOUNG
Claimant

WESLEYLIFE
Employer

APPEAL 15A-UI-09826-CL-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 08/09/15
Claimant: Appellant (1)

Iowa Code § 96.5(2)a – Discharge for Misconduct
Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant filed an appeal from the August 31, 2015, (reference 01) unemployment insurance decision that denied benefits based upon a voluntary quit. The parties were properly notified about the hearing. A telephone hearing was held on September 15, 2015. Claimant participated. Employer participated through people and culture specialist, Heidi Vanden Hall and was represented by Jennifer Groenwold.

ISSUE:

Did claimant voluntarily leave the employment with good cause attributable to employer or did employer discharge claimant for reasons related to job misconduct sufficient to warrant a denial of benefits?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed part time as a CNA/CMA from February 14, 2011, and was separated from employment on February 9, 2015, when she voluntarily quit.

On December 3, 2014, claimant's mother called supervisor Linda Hill to inform her that claimant had been arrested and was incarcerated. Claimant's mother informed employer that claimant's next court date was scheduled for January 22, 2015. Initially, employer held claimant's job for her.

On February 7, 2015, claimant's mother contacted employer and stated she was unsure of claimant's release date. Employer then made the decision that it could no longer hold claimant's position for her.

Claimant was released on March 30, 2015.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant's separation from the employment was without good cause attributable to the employer.

Iowa Code § 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.

Iowa Admin. Code r. 871-24.25(16) 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 § 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 § 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:

(16) The claimant is deemed to have left if such claimant becomes incarcerated.

In the context of the Iowa Employment Security Law, the separation is considered a quit. An individual who does not report to the employment because of incarceration is *presumed* to have quit without good cause attributable to the employer. Iowa Admin. Code r. 871-24.25(16). An employer is entitled to expect its employees to report to work as scheduled or to be notified as to when and why the employee is unable to report to work. The claimant's incarceration on for an extended period of time was not a good-cause reason for the separation attributable to the employer. Employer's attribution of the absences as a voluntary leaving of employment was reasonable as it is not expected to hold employment for incarcerated employees.

DECISION:

The August 31, 2015, (reference 01) unemployment insurance decision is affirmed. Claimant voluntarily left the 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.

Christine A. Louis
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Decision Dated and Mailed

cal/css