

**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**

**DIANA J MASON
APT 10
115 S MARKET
OSKALOOSA IA 52577**

**GRANDVIEW CARE CENTER INC
2900 WESTOWN PKWY STE A
WEST DES MOINES IA 50266 1315**

**Appeal Number: 06A-UI-03744-DWT
OC: 11/13/05 R: 03
Claimant: Appellant (1)**

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 – Voluntary Quit

STATEMENT OF THE CASE:

Diana J. Mason (claimant) appealed a representative's March 21, 2006 decision (reference 05) that concluded she was not qualified to receive unemployment insurance benefits, and the account of Grandview Care Center, Inc. (employer) would not be charged because the claimant voluntarily quit her employment for reasons that do not qualify her to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on April 20, 2006. The claimant participated in the hearing with her witness, Roxanne Price. Pat Wiltfang, the administrator, and Susie Davis, the director of nursing, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the claimant voluntarily quit her employment for reasons that qualify her to receive unemployment insurance benefits?

FINDINGS OF FACT:

The claimant started working for the employer on October 24, 2005. The claimant worked as a full-time certified nursing assistant. Davis was the claimant's supervisor.

During the claimant's employment, the employer changed the posted schedule frequently. The claimant asked the employer why the schedule changed so much. Employees assumed the schedule changed because of shortages that occurred when employees quit or called in sick. The employer had to make adjustments to maintain the proper ratio between employees and residents. The schedule warns employees that the schedule was subject to change.

Before the claimant was restricted from working from February 1 through 4, the employer posted a schedule and the claimant's day off was February 6. On February 3, the claimant made a follow-up appointment with her doctor for 2:15 p.m. on February 6. The employer requires employees to make doctor's appointments for days they are not scheduled to work.

The claimant worked as scheduled on February 5. Around 8:30 p.m. on February 5, the claimant learned she was scheduled to work the next day at 2:00 p.m. The claimant left Davis a note that she would not be at work on February 6 because she had a doctor's appointment. Although the claimant was done with her doctor's appointment by 4:30 p.m., she did not go to work or contact the employer to see if the employer needed her to work until 10:00 p.m.

The claimant knew she was scheduled to work on February 7, 2006. The charge nurse called the claimant on February 7 to find out if she was coming to work. The claimant told the charge nurse she was not reporting to work and quit because the schedule kept changing.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quits employment without good cause attributable to the employer. Iowa Code §96.5-1. The claimant voluntarily quit her employment on March 7, 2006. When a claimant quits, she has the burden to establish she quit with good cause attributable to the employer. Iowa Code §96.6-2.

Changes in the schedule had been occurring on a regular basis prior to February 6, 2006. While the claimant had a good reason to be frustrated, the facts do not establish the employer would have disciplined her for going to her doctor's appointment on February 6 because she made it when the employer had initially scheduled her off this day.

Changing a posted schedule to make sure there are enough employees to take care of the residents does not constitute a change in the employment contract. 871 IAC 24.26(1). The claimant may have had compelling personal reasons for quitting. The reasons the claimant quit do not, however, qualify her to receive unemployment insurance benefits. As of February 5, 2006, the claimant is not qualified to receive unemployment insurance benefits.

DECISION:

The representative's March 21, 2006 decision (reference 05) is affirmed. The claimant voluntarily quit her employment for reasons that do not qualify her to receive unemployment insurance benefits. The claimant is disqualified from receiving unemployment insurance benefits as of February 5, 2006. This disqualification continues until she has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The employer's account will not be charged.

dlw/kkf