

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DANIELA BURR
Claimant

APPEAL NO. 10A-UI-04416-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

HCM INC
Employer

**Original Claim: 01/24/10
Claimant: Appellant (1)**

Section 96.5(1) – Quit

STATEMENT OF THE CASE:

The claimant, Daniela Burr, filed an appeal from a decision dated March 11, 2010, reference 02. The decision disqualified her from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on May 6, 2010. The claimant participated on her own behalf. The employer, HCM, participated by Administrator Diane Schaffner and DON Jessica Carson.

ISSUE:

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

FINDINGS OF FACT:

Daniela Burr was employed by HCM from May 13, 2009 until February 5, 2010 as a full-time CNA. She was absent from work without finding a replacement on January 22, 23, and 24, 2010. The absences would be counted against her if she did not have a replacement. On January 27, 2010, she spoke with DON Jenny Johnson, who said she had been taken off the schedule because the employer believed she had quit by not coming in to work the past three shifts. Ms. Johnson said her hours for the rest of January had been covered but she would be back on the schedule in February.

A co-worker texted Ms. Burr the February schedule on February 1, 2010, and she was to work February 5, 2010. Between those dates, the claimant heard from other employees she had been taken off the schedule again. The claimant did not go to work the day she was scheduled and never spoke with any member of management to determine if she, in fact, still had a job. She assumed she had been fired based on second-hand information from co-workers.

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.

The claimant assumed she had been fired based on rumors and reports from co-workers. No member of management, or her direct supervisor, ever told her she was fired. She did not come to work February 5, 2010, as scheduled or at any time after that. Where an individual mistakenly believes that she is discharged and discontinues coming to work (but was never told he was discharged), the separation is a voluntary quit without good cause attributable to the employer. *LaGrange v. IDJS*, (Unpublished, Iowa App. 1984). The administrative law judge finds the reasoning in that case to be persuasive. The claimant is considered a voluntary quit because she stopped coming to work although she had never been told she was fired. She is disqualified.

DECISION:

The representative's decision of March 11, 2010, reference 02, is affirmed. Daniela Burr is disqualified and benefits are withheld until she has earned ten times her weekly benefit amount, provided she is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/kjw