

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**NICHOLE A RICHARDSON**  
Claimant

**APPEAL NO. 09A-UI-04895-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CAREAGE OF NEWTON**  
Employer

**Original Claim: 02/15/09  
Claimant: Appellant (1)**

Section 96.5-1 - Voluntary Quit

**STATEMENT OF THE CASE:**

Nichole A. Richardson (claimant) appealed a representative's March 17, 2009 decision (reference 02) that concluded she was not qualified to receive benefits and the account of Careage of Newton (employer) would not be charged because she had voluntarily quit her employment for reasons that do not qualify her to receive benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on April 23, 2009. The claimant responded to the hearing notice and was called for the hearing. The claimant was not available for the 1:00 p.m. scheduled hearing. Mary Greeley appeared on the employer's behalf.

After the employer had been excused and the hearing had been closed, the claimant called the Appeals Section. The claimant made a request to reopen the hearing. Based on the claimant's request to reopen the hearing, the administrative record, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUES:**

Is there good cause to reopen the hearing?

Did the claimant voluntarily quit her employment for reasons that qualify her to receive benefits, or did the employer discharge her for work-connected misconduct?

**FINDINGS OF FACT:**

The claimant started working for the employer in June 2008. The claimant worked as a part-time CNA. The employer hired her to fill in for employees on vacation. During her employment, the claimant talked the employer about ways to improve orientation and other jobs. The claimant did not indicate there were any problems with CNAs passing medication to residents.

CNAs who worked with D., a LPN, reported she had asked them to pass medication to residents when she could not reach them but had personally watched the CNA give the medication to a resident. Employees verified they had never heard D. threaten to discharge an employee if the employee did not help D.

On October 24, the claimant quit working for the employer. The claimant asserted she quit after D. told her she was fired if she did not help her have pass meds to residents. The employer thought the claimant quit because she had a full-time job in Des Moines.

Before the scheduled hearing, the claimant provided a phone number to call her for the 1:00 pm. hearing. This number was called, but the claimant did not answer. A message was left for the claimant to contact the Appeals Section immediately. By the time the claimant called the Appeals Section at 1:25 p.m., the employer had been excused and the hearing had been closed. The claimant asked that the hearing be reopened because she had been sleeping when she was called for the hearing. The claimant had called in sick the morning of April 23 because she had flu-like symptoms.

**REASONING AND CONCLUSIONS OF LAW:**

If a party responds to a hearing notice after the record has been closed and the party who participated at the hearing is no longer on the line, the administrative law judge can only ask why the party responded late to the hearing notice. If the party establishes good cause for responding late, the hearing shall be reopened. The rule specifically states that failure to read or follow the instructions on the hearing notice does not constitute good cause to reopen the hearing. 871 IAC 26.14(7)(b) and (c).

Although the claimant intended to participate in the hearing, if she were ill, she could have requested a continuance, but did not. Sleeping at the time of the hearing so she did not hear her cell phone is no different than not hearing a cell phone at work. The claimant did not establish good cause to reopen the hearing. Her request to reopen the hearing is denied.

A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quits employment without good cause attributable to the employer, or an employer discharges her for reasons constituting work-connected misconduct. Iowa Code §§ 96.5-1, 2-a. The record indicates the claimant voluntarily quit her employment. Even though the claimant asserted a nurse told her she could leave and was fired, the record does not support the claimant's assertion. The claimant's explanation at the fact-finding interview as to why she left is not supported by the information other employees submitted on the employer's behalf. The administrative record indicates the claimant quit her employment for personal reasons that do not qualify her to receive benefits. As of February 15, 2009, the claimant is not qualified to receive benefits based on the reasons for her October 24, 2008 employment separation.

**DECISION:**

The claimant's request to reopen the hearing is denied. The representative's March 17, 2009 decision (reference 02) is affirmed. The claimant voluntarily quit her employment for reasons that do not qualify her to receive benefits. The claimant is disqualified from receiving unemployment insurance benefits as of October 26, 2008. 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.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/kjw