

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

NANETTE M HARDY CASWELL
Claimant

APPEAL NO. 10A-UI-09101-VST

**ADMINISTRATIVE LAW JUDGE
DECISION**

SCOTTISH RITE PARK INC
Employer

OC: 05/16/10
Claimant: Respondent (4)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Employer filed an appeal from a decision of a representative dated June 22, 2010, reference 02, which held claimant eligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on September 27, 2010. Employer participated by Kim Gahan, Director of Nursing. Although the claimant responded to the hearing notice and provided a telephone number at which she could be reached, when that number was dialed by the administrative law judge, voice mail picked up. A detailed message was left for the claimant on how to participate in the hearing. The claimant did not call in prior to the closing of the record. The record consists of the agency file and the exhibits submitted by the employer. No additional testimony was taken.

ISSUE:

Whether the claimant voluntarily left for good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge, having considered all of the evidence in the record, makes the following findings of fact:

The employer is a facility that provides intermediate care and long-term care for its residents, including skilled nursing. The claimant was hired on December 1, 2008, as a part-time certified nursing assistant.

On December 15, 2008, the claimant called in sick and was then a no-call/no-show on December 23, 2008. The employer spoke to the claimant on December 24, 2008, and the claimant said she would be unable to work her scheduled shift that night since she was working at another job. She had not shown up for work on December 23, 2008, for the same reason. She was scheduled for work on December 31, 2008. The claimant never contacted the employer after December 24, 2008.

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.

A quit is a separation initiated by the employee. 871 IAC 24.1(113)(b). In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 698, 612 (Iowa 1980) and Peck v. EAB, 492 N.W.2d 438 (Iowa App. 1992). 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. See 871 IAC 24.25.

The evidence is uncontroverted that the claimant initiated the separation of employment in this case. The claimant stopped coming to work and told her employer that she had a new job. The claimant, in effect, abandoned her job. She intended to sever the employment relationship by accepting other employment and refusing to work for the employer. Benefits are denied.

DECISION:

The decision of the representative dated June 22, 2010, reference 02, is modified in favor of the appellant. The claimant is disqualified from receiving benefits as having voluntarily left her employment without good cause attributable to the employer.

Vicki L. Seeck
Administrative Law Judge

Decision Dated and Mailed

vls/css