

**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**

**JOAN WELDON
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**THE UNIVERSITY OF IOWA
c/o DAVE BERGEON
EMPLOYEE RELATIONS
121 "R" UNIVERSITY SERVICES BUILDING
IOWA CITY IA 52242**

**Appeal Number: 04A-UI-03318-ET
OC 02-15-04 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 Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the March 17, 2004, reference 03, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on April 14, 2004. The claimant participated in the hearing. Dave Bergeon, Program Consultant, participated in the hearing on behalf of the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a part-time staff nurse for The University of Iowa from January 10, 2000 to February 17, 2004. She was experiencing personal problems and as a result the Iowa

Board of Nursing gave her the choice of surrendering her license for one year or having it permanently revoked. The claimant surrendered her license and then resigned her position because she was required to have a license to perform her job.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left her employment without good cause attributable to the employer.

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 has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code Section 96.6-2 (amended 1998). While the claimant did not have a choice about continuing her employment after she surrendered her nursing license due to personal problems, the issue is whether her leaving was attributable to the employer. The administrative law judge concludes it was not. The claimant resigned her position because she could not continue to work as a nurse if she did not have a nursing license and if she had not left voluntarily the employer would have been forced to terminate her employment for not being able to perform the essential functions of her job. Consequently, the claimant is not eligible for unemployment insurance benefits.

DECISION:

The March 17, 2004, reference 01, decision is affirmed. The claimant voluntarily left her 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.

je/kjf