

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MELONY H JOHNSON
Claimant

APPEAL NO. 10A-UI-09948-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

PINNACLE HEALTH FACILITIES XVII LP
Employer

OC: 06/13/10
Claimant: Appellant (2)

Section 96.5-1– Voluntary Quit
871 IAC 24.26(21) – Quit or Be Fired

STATEMENT OF THE CASE:

The claimant appealed a department decision dated July 9, 2010, reference 01, that held she voluntarily quit without good cause on June 9, 2010, and that denied benefits. A telephone hearing was held on August 30, 2010. The claimant participated. The employer did not participate in the hearing.

ISSUE:

Whether the claimant voluntarily quit with good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the claimant and having considered the evidence in the record, finds: The claimant worked for the employer as a full-time C.N.A. from about April 2008 to June 9, 2010. The employer D.O.N. called the claimant on June 14, 2010 and stated she could quit or be terminated due to some resident care issues. The D.O.N. suggested it would look better on claimant's employment record if she quit. The claimant chose to quit rather than be fired.

The employer failed to respond to the hearing notice.

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.

871 IAC 24.26(21) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(21) The claimant was compelled to resign when given the choice of resigning or being discharged. This shall not be considered a voluntary leaving.

The administrative law judge concludes that the claimant chose to quit rather than be fired, which is a voluntary quit with good cause attributable to the employer on June 9, 2010. A challenge to quit or be fired is not considered a voluntarily leaving.

DECISION:

The department decision dated July 9, 2010, reference 01, is reversed. The claimant voluntarily quit with good cause attributable to the employer on June 9, 2010. Benefits are allowed, provided the claimant is otherwise eligible.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/kjw