

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JESSICA J NAVARRO HERNANDEZ
Claimant

APPEAL NO. 12A-UI-08580-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CARE INITIATIVES
Employer

OC: 06/17/12
Claimant: Appellant (1)

Section 96.5(1) – Quit

STATEMENT OF THE CASE:

The claimant, Jessica Navarro-Hernandez, filed an appeal from a decision dated July 10, 2012, reference 01. The decision disqualified her from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on August 9, 2012. The claimant participated on her own behalf. The employer, Care Initiatives, participated by DON Michelle Gifford and was represented by TALX in the person of David Williams.

ISSUE:

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

FINDINGS OF FACT:

Jessica Navarro Hernandez was employed by Care Initiatives from October 20, 2009 until June 14, 2012 as a CNA working PRN, or as needed. She had been hired regular part time but had asked to go PRN in May 2012 due to “personal problems.” She was available the afternoon shift from 2:00 p.m. to 10:00 p.m. She would work the day shift if available and was to check in with DON Michelle Gifford about her availability each month.

She was scheduled to work May 12, 26 and 27, 2012. She worked only part of the day May 12, worked May 26 and was no-call/no-show to work May 27, 2012, due to lack of child care. She made no contact with the employer after that date even though the employer had called and left messages for her to call. On June 20, 2012, Ms. Navarro-Hernandez came in to speak with Ms. Gifford and have her fill out a paper for the department of human services. Ms. Gifford said the only shifts available were the 2:00 p.m. to 10:00 p.m. shift which she had been working already. The claimant did not have child care for those hours and wanted to work only days. Ms. Navarro-Hernandez did not contact the employer after that even when she was able to obtain child care at the end of June 2012.

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 24.25(17) provides:

Voluntary quit without good cause. 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 from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(17) The claimant left because of lack of child care.

The claimant is considered a voluntary quit because she did not have child care and could not work the hours she had been working. Under the provisions of the above Administrative Code section, this is a voluntary quit without good cause attributable to the employer and the claimant is disqualified.

DECISION:

The representative's decision of July 10, 2012, reference 01, is affirmed. Jessica Navarro-Hernandez is disqualified and benefits are withheld until she has earned ten times her weekly benefit amount in insured work, provided she is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/css