

**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**

**ROXANN GARRETT
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**HEARTLAND EMPLOYMENT SERVICES
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**Appeal Number: 05A-UI-08143-ET
OC: 09-19-04 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 August 4, 2005, 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 September 12, 2005. The claimant participated in the hearing. Diane Langbehn, Administrator and Director of Nursing Services; Sandy Wilson, Assistant Director of Nursing; Ted Biderman, Human Resources Director; and Tracy Taylor, Employer Representative, 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 full-time LPN/Nurse Supervisor for Heartland Employment

Services from September 30, 2004 to July 15, 2005. On July 14, 2005, the claimant was working the 2:00 p.m. to 10:30 p.m. shift. The employer had asked another evening shift nurse, Linda Richards, who usually worked on the Alzheimer's unit to cover the Medicare unit for another employee on the day shift. Ms. Richards was initially upset about the situation, but after speaking to the scheduling coordinator she indicated she did not mind remaining on the Medicare unit. The claimant was working on the Medicare unit and after a staff meeting she paged Diane Langbehn, Administrator/Director of Nursing Services, and said the unit was "a mess" and it would be impossible for her to get her work done. Ms. Langbehn paged Sandy Wilson, Assistant DON, and Ms. Wilson went to talk to the claimant, who stated she could not complete the duties on the "to do" list, and Ms. Wilson indicated she saw no reason the claimant could not complete her work. After that the claimant would not communicate with Ms. Wilson, Ms. Wilson spoke to Ms. Richards, and she said everything was fine, so Ms. Wilson left to return to her duties. The employer had met with the claimant previously about her performance and complaints from families about her attitude. The employer asked the claimant if she had any suggestions on how things could be changed and the claimant did not make any. She had stated in the past that she thought they should have more nurses, but the employer felt it had sufficient staff. The claimant said the employer was "always" writing up the nurses and the bottom of the warning stated termination and/or loss of license could result. She was also upset because a resident had been moved but the previous resident's name was still on the door. She asked Ms. Richards if there had been a room change, but she stated she was not aware of one, and they had to go back through the records for the day to make sure Ms. Richards had not given the new resident the previous resident's medication. At the end of her shift the claimant wrote a resignation letter stating, "Diane – What you did to Linda today was totally unfair. And it made it impossible to get anything done on 2nd shift. This is my notice. I am done as of 10:30 July 14, 2005."

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.

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. 871 IAC 24.25. Leaving because of dissatisfaction with the work environment is not good cause. 871 IAC 24.25(21). Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3), (4). 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. While the claimant was frustrated about the situation with Ms. Richards and was upset because she felt the employer wrote up the nurses too frequently with the forms stating further incidents could result in termination or loss of license, it appears that the claimant was more upset about the situation involving Ms. Richards than was Ms. Richards. Additionally, although the claimant believed the write ups issued by the employer were threatening because the form stated further incidents could result in termination and/or loss of license, that is fairly standard language used by employers when issuing warnings to

give the employee notice that their job and license may be in jeopardy if the behavior continued. The claimant has not demonstrated that her working conditions were unlawful, intolerable, or detrimental and has not established that her leaving was for good cause attributable to the employer. Benefits are denied.

DECISION:

The August 4, 2005, reference 03, 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/kjw