

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SANDRA K WILSON
Claimant

APPEAL NO. 11A-UI-11745-H2

**ADMINISTRATIVE LAW JUDGE
DECISION**

ABCM CORPORATION
Employer

OC: 08-07-11
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the August 30, 2011, reference 01, decision that denied benefits. After due notice was issued, an in person hearing was held on January 30, 2012 in Waterloo, Iowa. The claimant did participate. The employer did participate through Amber Hunt, administrator.

ISSUE:

Did the claimant voluntarily quit her employment without good cause attributable to 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 certified nurses' aid and certified medication aide and procurement/inventory worker, full-time, beginning on December 6, 2002, through August 8, 2011, when she voluntarily quit. The claimant was working as a nursing aid, medication aid and performing inventory duties. She was not allowed to pick and chose which duties she performed. She was never guaranteed that she would get to perform any particular duties or that she would be scheduled for any particular shifts for any of the duties. She had ten instances of absenteeism in a three-month period that caused the employer trouble with medication passing for patients and inventory control. The administrator and the director of nursing discussed taking the claimant off of medication passing assignments and off of inventory work due to her absences that were interfering with patient care. The claimant learned by looking at the schedule that she was only going to be assigned to work as a certified nursing assistant. Her hours of work were not going to be cut, nor were her wages going to be reduced. Prior to the change in the schedule, the majority of the claimant's work was as a nursing assistant. She was not going to be assigned to perform any duties she had not previously performed. When the claimant saw the schedule and learned she was only going to be performing nursing assistant duties, she went to speak to Ms. Hunt. The claimant told Ms. Hunt that she thought she should have been consulted before any changes were made. Ms. Hunt informed her that the claimant was not entitled to participate in the discussion between herself and the director of nursing. Because she was not consulted, the claimant voluntarily

quit. She simply stopped reporting for work after August 2, 2011. Continued work was available for the claimant if she had not quit.

REASONING AND CONCLUSIONS OF LAW:

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

Iowa Code § 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(27) 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 § 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 § 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:

(27) The claimant left rather than perform the assigned work as instructed.

The claimant was not entitled to any particular number of shifts as an inventory person or as a medication passer. An employer is allowed to schedule employees to meet their business needs. The claimant's wages and hours were not going to be changed. She was going to be assigned to perform duties that she performed the majority of the week. Under such circumstances, the Administrative Law Judge cannot conclude that the employer made a change in the contract of hire that would be good cause attributable to the employer for quitting the employment.

871 IAC 24.25(4) 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 § 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 § 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:

(4) The claimant was absent for three days without giving notice to employer in violation of company rule.

An employer is entitled to expect its employees to report to work as scheduled or to be notified when and why the employee is unable to report to work. Inasmuch as the claimant failed to

report for work or notify the employer for three consecutive workdays in violation of the employer policy, the claimant is considered to have voluntarily left employment without good cause attributable to the employer. Benefits are withheld.

DECISION:

The August 30, 2011 (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.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/kjw