

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**THOMAS J WIGNALL**  
Claimant

**APPEAL NO. 08A-UI-00128-H2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**DIAL SILVERCREST CORP**  
Employer

**OC: 11-25-07 R: 02  
Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Leaving

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the December 28, 2007, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on January 22, 2008. The claimant did participate. The employer did participate through Derrick Johnson, Executive Director.

**ISSUE:**

Did the claimant voluntarily quit his employment with good cause attributable to the employer?

**FINDINGS OF FACT:**

Having reviewed the testimony and all of the evidence in the record, the administrative law judge finds: Claimant was employed as a CNA, part-time, beginning March 22, 2007, through December 10, 2007, when he voluntarily quit.

The claimant was working as a certified nurse's aid and had worked primarily the night shift. On November 5 he presented the employer with a note from his physician indicating that in the future he could only work day shifts due to his non-work-related narcolepsy. The claimant wanted the employer to schedule him on Friday, Saturday, and Sunday day shifts only from 8:00 a.m. to 4:00 p.m., as he was already committed to school and internship hours during all other daytime hours. The employer refused to accommodate the claimant's limitation on his hours. When the employer would not accommodate his work hour requests, the claimant voluntarily quit.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left his 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.

Iowa Code § 96.5-1-d 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. But the individual shall not be disqualified if the department finds that:

d. The individual left employment because of illness, injury or pregnancy upon the advice of a licensed and practicing physician, and upon knowledge of the necessity for absence immediately notified the employer, or the employer consented to the absence, and after recovering from the illness, injury or pregnancy, when recovery was certified by a licensed and practicing physician, the individual returned to the employer and offered to perform services and the individual's regular work or comparable suitable work was not available, if so found by the department, provided the individual is otherwise eligible.

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2).

The claimant was hired with the understanding that he would work different shifts. The claimant worked the night shift extensively until he was prevented by his physician from continuing to work nights due to a non-work related medical condition: narcolepsy. The employer is not obligated to accommodate non-work-related medical restrictions. The claimant then demanded that the employer only schedule him for days on Friday, Saturday, and Sunday, to accommodate his other schooling issues. The employer was not obligated to meet the claimant's demands. The claimant never offered to return to work for the employer with no medical work restrictions. When the employer would not acquiesce to the claimant's scheduling demands, he voluntarily quit. The claimant's decision to quit may have been for good personal reasons, but his leaving was without good cause attributable to the employer. Benefits are denied.

**DECISION:**

The December 28, 2007, reference 01, decision is affirmed. The claimant voluntarily left his employment without good cause attributable to the employer. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

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Teresa K. Hillary  
Administrative Law Judge

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Decision Dated and Mailed

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