

**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**

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**Appeal Number: 04A-UI-08357-SWT
OC 07/11/04 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 Quit

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated August 2, 2004, reference 01, that concluded she voluntarily quit employment without good cause attributable to the employer. A telephone hearing was held on August 24, 2004. The parties were properly notified about the hearing. The claimant participated in the hearing. Phyllis Litwiller participated in the hearing on behalf of the employer with a witness, Sue Scott. Exhibit One was admitted into evidence at the hearing.

FINDINGS OF FACT:

The claimant worked full time for the employer as a certified nursing aide (CNA) from October 29, 2003 to July 13, 2004. The claimant initially worked five days per week, but the employer accommodated the claimant's request to work four days per week to allow the claimant to care for her husband's medical problems.

The claimant has been under a doctor's care for high blood pressure and depression. The claimant felt that her job as a CNA was too stressful because of the workload and deadlines for the job. On July 10, 2004, the claimant went to the doctor. She explained to the doctor the stress she was experiencing at work. The doctor excused her from work for two days and recommended that she find other employment if she continued to have problems after she returned to work.

The claimant returned to work on July 13, 2004, but decided after working about four hours that the job involved too much stress and she could not tolerate the workload and demands of the job. The claimant had worked as a CNA before and the conditions at work were no different than they were in her previous job. The claimant reported to the staffing coordinator on July 13, 2004, that she was resigning immediately because she could not tolerate the stress of the job. The next day, the claimant had a discussion with the director of nursing. The director of nursing suggested some options that would not involve the claimant quitting her job, including taking a leave of absence. The claimant rejected these options.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant voluntarily quit 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.

The unemployment insurance law provides that individual is qualified to receive benefits if she: (1) left employment because of illness, injury or pregnancy with the advice of a licensed and practicing physician, (2) notified the employer that she needed to be absent because of the illness or injury, and (3) offered to return to work for the employer when recovery was certified by a licensed and practicing physician, but her regular work or comparable suitable work was not available. Iowa Code Section 96.5-1-d.

The unemployment insurance rules also provide that a claimant is qualified to receive benefits if compelled to quit employment due to a health condition attributable to the employment. The rules require a claimant: (1) to present competent evidence that conditions at work made it impossible to continue in employment due to a serious health danger and (2) to inform the employer before quitting of the work-related health condition and that she intends to quit unless the problem is corrected or condition is reasonably accommodated. 871 IAC 24.26(6)b.

The claimant does not meet the criteria for receiving unemployment insurance benefits under either Iowa Code Section 96.5-1-d or 871 IAC 24.26(6)b. Under Iowa Code Section 96.5-1-d, the claimant left employment with the advice of her doctor, but she has not attempted to return to work after recovering from her health problems. Under 871 IAC 24.26(6)b, the claimant did not seek any accommodation for her medical problems before quitting her job.

DECISION:

The unemployment insurance decision dated August 2, 2004, reference 01, is affirmed. The claimant is disqualified from receiving unemployment insurance benefits until she has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible, or she offers to return to after recovering from her medical problems, but discovers that work is not available for her.

saw/b