

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TORY M WEEKS
Claimant

APPEAL NO: 12A-UI-04190-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

FIVE STAR QUALITY CARE INC
Employer

OC: 03/18/12
Claimant: Respondent (2/R)

Iowa Code § 96.5(1) – Voluntary Quit

PROCEDURAL STATEMENT OF THE CASE:

The employer appealed a representative's April 9, 2012 determination (reference 01) that held the claimant qualified to receive benefits and the employer's account subject to charge because the claimant had voluntarily quit her employment for reasons that qualify her to receive benefits. The claimant participated in the hearing. Amy Bushong and Liz Kennedy appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is not qualified to receive benefits.

ISSUE:

Did the claimant voluntarily quit her employment for reasons that qualify her to receive benefits?

FINDINGS OF FACT:

The claimant started working for the employer in October 2011. She worked as a full-time CNA. The employer's policy requires employees to call in two hours before a scheduled shift and the employee is supposed to personally contact the employer when the employee is unable to work as scheduled, not someone on the employee's behalf.

When the claimant's boyfriend unexpectedly passed away in February 2012, the claimant had problems coping with his death. She did not believe the employer supported her and required her to work even though they knew she was grieving. The claimant still had problems coping with his death in March, or about month after he passed away.

The claimant went to a doctor on March 8 in an attempt to help her deal with her emotions. The claimant was unable to work her scheduled shift on March 8. The claimant's aunt notified the employer about 90 minutes before the claimant was scheduled to work and reported that the claimant was unable to work. The claimant had not made any arrangements for someone to work for her.

The next morning, Kennedy, the director of nursing, started calling claimant to find out if she was planning to work her shift that day. The claimant was sleeping and did not hear her phone ring. The employer then called the claimant's mother, who also works for the employer, and the

claimant's aunt. The employer had the claimant's aunt's phone number because this was the same person who had called in the claimant's March 8 absence.

Around noon, the claimant received a call from aunt that the employer had been trying to contact the claimant and that she should contact the employer. The claimant was upset that the employer called the claimant's mother and her aunt in an attempt to talk to her. The claimant noticed the employer had also called her that morning. The claimant was so upset with the employer that she did not return the employer's phone calls, report back to work again, or contact the employer again.

The claimant established a claim for benefits during the week of March 18, 2012. She has filed for and received benefits since March 18, 2012.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quits employment without good cause attributable to the employer. Iowa Code § 96.5(1). When a claimant quits, she has the burden to establish she quit for reasons that qualify her to receive benefits. Iowa Code § 96.6(2).

The claimant quit when she did not contact the employer or return to work after March 9, 2012. The claimant was under a physician's care. As of March 9, she was still trying to cope with the death of her boyfriend and was very emotional. Since the claimant did not contact the employer again or return to work after March 8, she established compelling personal reasons for quitting. Her reason for quitting because she was upset with the employer on March 9 does not qualify her to receive benefits. As of March 18, 2012, the claimant is not qualified to receive benefits.

The issue of overpayment or whether the claimant is eligible for a waiver of any overpayment of benefits she has received since March 18, 2012, will be remanded to the Claims Section to determine.

DECISION:

The representative's April 9, 2012 determination (reference 01) is reversed. The claimant voluntarily quit her employment, but she quit for reasons that do not qualify her to receive benefits. The claimant is disqualified from receiving unemployment insurance benefits as of March 18, 2012. This disqualification continues until she has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The employer's account will not be charged. The issue of overpayment or whether the claimant is eligible for a waiver of any overpayment is **Remanded** to the Claims Section to determine.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/kjw