

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SHANNON K MOSES

Claimant

APPEAL NO. 11A-UI-09948-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WESLEY RETIREMENT SERVICES INC

Employer

OC: 06/1/911

Claimant: Respondent (1)

Section 96.5(1) – Quit

STATEMENT OF THE CASE:

The employer, Wesley Retirement Services, Inc. (Wesley), filed an appeal from a decision dated July 22, 2011, reference 01. The decision allowed benefits to the claimant, Shannon Moses. After due notice was issued a hearing was held by telephone conference call on August 22, 2011. The claimant did not participate personally but submitted a written statement in lieu of personal testimony. The employer participated by Director of Home Care Maria Jordan. Director of Human Services Betty Stone observed the proceedings but did not participate.

ISSUE:

The issue is whether the claimant quit work with good cause attributable to the employer.

FINDINGS OF FACT:

Shannon Moses was employed by Wesley from November 19, 2010 until May 16, 2011 as a part-time CNA/Home Care Aide. She was also studying to become a registered nurse. At some point someone informed her that if she passed her nursing board exam and became a registered nurse she could not continue working as a CNA. This was because the legal obligations and responsibilities of an RN would conflict with the parameters imposed by Wesley on a CNA. As an example, if a client needed a medical procedure a CNA was to call 911 to secure the necessary care. An RN would be obligated, by the license, to provide certain life-saving measures which would put her actions outside the parameters the employer imposed on a CNA.

Ms. Moses submitted a written resignation on April 20, 2011, stating her last day would be May 8, 2011, because she could not remain as a CNA once she got her license. Later she agreed to stay until May 16, 2011, which she did. She had inquired of her supervisor, Debra Hemepe, and Director of Home Health Care Maria Jordan, if there were any RN positions at Wesley. She was told she would have to check with human resources and that office would know the status of any job openings.

The claimant was scheduled to take her nursing exam on June 8, but elected to reschedule it for June 20, 2011. She filed a claim for unemployment benefits with an effective date of June 19, 2011.

REASONING AND CONCLUSIONS OF LAW:

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(40) provides:

(40) Where the claimant voluntarily quit in advance of the announced scheduled layoff, the disqualification period will be from the last day worked to the date of the scheduled layoff. Benefits shall not be denied from the effective date of the scheduled layoff.

The claimant quit prior to the time she would have been laid off. Wesley would have had no work for her as a CNA once she passed her nursing exam on or about June 20, 2011. As that is the date on which she filed her claim for unemployment benefits, she quit right at the time she would have been laid off due to lack of work as a CNA. Under the provisions of the above Administrative Code section, this is not a disqualifying separation and benefits are allowed.

DECISION:

The representative's decision of July 22, 2011, reference 01, is affirmed. Shannon Moses is qualified for benefits, provided she is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/pjs