

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TINA L THIELEN
Claimant

APPEAL NO. 08A-UI-05521-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

COLONIAL MANOR OF MANILLA INC
MANILLA MANOR
Employer

OC: 05/11/08 R: 01
Claimant: Appellant (1)

Section 96.5(1) – Quit

STATEMENT OF THE CASE:

The claimant, Tina Thielen, filed an appeal from a decision dated June 5, 2008, reference 03. The decision disqualified her from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on June 30, 2008. The claimant participated on her own behalf. The employer, Manilla Manor, participated by Director of Nursing (DON) Karol Dammann.

ISSUE:

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

FINDINGS OF FACT:

Tina Thielen was employed by Colonial Manor from June 28, 2006 until March 1, 2008, as a full-time certified nursing assistant. On March 1, 2008, Charge Nurse Connie Wood, RN received complaints from residents about Ms. Thielen's conduct. When Ms. Wood attempted to talk to the claimant about the complaints she became belligerent. At that point Ms. Wood told her to go home pending an investigation into the complaints, to which the claimant responded, "Fuck this, I won't be back." She left and did not return until she came to pick up her last check on March 7, 2008.

REASONING AND CONCLUSIONS OF LAW:

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.

871 IAC 24.25(28) 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 section 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 section 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:

(28) The claimant left after being reprimanded.

The claimant assumed she had been fired when she was sent home, but there is no evidence of this. The employer wanted to investigate the complaints from the residents and being sent home pending that investigation does not constitute a discharge. The claimant left after using an obscenity to the charge nurse and stated she would not "be back," and never returned for any other scheduled shifts or attempted to contact the employer. The employer was entirely reasonable in accepting the claimant's declaration she would not be back as a voluntary quit after a reprimand. Under the provisions of the above Administrative Code section, this is a voluntary quit without good cause attributable to the employer. The claimant is disqualified.

DECISION:

The representative's decision of June 5, 2008, reference 03, is affirmed. Tina Thielen is disqualified and benefits are withheld until she has earned ten times her weekly benefit amount, provided she is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/css