

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ELIZABETH D COLBURN**

Claimant

**APPEAL NO. 09A-UI-07724-NT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**GOOD SAMARITAN SOCIETY INC**

Employer

**OC: 04/26/09**

**Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Quit

**STATEMENT OF THE CASE:**

Elizabeth Colburn filed a timely appeal from a representative's decision dated May 20, 2009, reference 01, which denied unemployment insurance benefits based upon her separation from Good Samaritan Society, Inc. After due notice a telephone conference hearing was scheduled for and held on June 12, 2009. The claimant participated personally. Participating as a witness for the claimant was Milissa Colburn. The employer participated by Ms. Lori Welch, Human Resource Director. Potential witnesses were Mr. Layne Gross and Ms. Gwen Musik. Employer's Exhibit One was received into evidence.

**ISSUE:**

The issue in this matter is whether the claimant left employment with good cause attributable to her employer.

**FINDINGS OF FACT:**

The administrative law judge, having considered all of the evidence in the record, finds: The claimant was employed by Good Samaritan Society from July 25, 2005 until March 7, 2009 when she voluntarily left employment. Ms. Colburn last worked as a part-time certified nursing assistant and was paid by the hour. Her immediate supervisor was Gwen Musik.

Ms. Colburn left her employment due to dissatisfaction with a work-related directive that had been given to her by a charge nurse on February 21, 2009. At that time the charge nurse believed that it was necessary to secure the assistance of an additional certified nursing assistant on the floor due to the immediate needs of residents. When the charge nurse's walkie-talkie message to Ms. Elizabeth Colburn and her sister-in-law, Milissa Colburn, went unanswered, the charge nurse went to the break area to summon assistance. When the claimant stated reluctance to immediately following the directive to provide assistance, the charge nurse escalated the directive and the verbiage used to insure immediate compliance. The claimant who felt that she would not be given a lunch period that day if she were not allowed to complete it at the time, tended her verbal notice of resignation that day citing the treatment of the charge nurse.

Under established company policies nursing assistants and nursing staff are expected to follow the work-related directives given by the charge nurse to insure proper and immediate care of the nursing home residents. If an employee's lunch or break periods are disrupted, a procedure is in place to note the change in the break or lunch time so that a break or lunch period can be taken at a later time, or in the alternative, the employee can be paid for the missed break period due to emergency circumstances. The company also utilizes a "fair treatment resolution" procedure that allows employees to specifically complain of policies conduct or actions that they feel are inappropriate and allows for a three-step resolution process within the organization. Although aware of these alternatives, Ms. Colburn elected not to avail herself of them but instead gave her notice of intention to quit employment.

It is the claimant's position that as she had received a previous warning for taking too long of a break, she felt that the employer would not be receptive to complaints and would not act if she complained about the charge nurse.

### **REASONING AND CONCLUSIONS OF LAW:**

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

An individual who voluntarily leaves their employment must first give notice to the employer of the reason for quitting in order to give the employer an opportunity to address or resolve the complaint. Cobb v. Employment Appeal Board, 506 N.W.2d 445 (Iowa 1993). An employee who receives a reasonable expectation of assistance from the employer after complaining about working conditions must complain further if conditions persist in order to preserve eligibility for benefits. Polley v. Gopher Bearing Company, 478 N.W.2d 775 (Minn. App. 1991).

The administrative law judge concludes based upon the evidence in the record that reasonable alternatives were available to the claimant, the claimant was aware of the alternatives but failed to avail herself of them. Inasmuch as the claimant did not give the employer an opportunity to resolve her most recent complaints prior to leaving employment, the separation was without good cause attributable to the employer. Benefits are denied.

**DECISION:**

The May 20, 2009, reference 01, decision is affirmed. The claimant voluntarily left her employment without good cause attributable to the employer. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, providing that she is otherwise eligible.

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Terence P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

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