

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ESMA PAJAZETOVIC
Claimant

APPEAL NO. 12A-UI-12416-LT

**ADMINISTRATIVE LAW JUDGE
DECISION**

RIDGEWAY PLACE INC
Employer

OC: 09/09/12
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant filed an appeal from the October 5, 2012 (reference 02) decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call on November 13, 2012. Claimant participated. Employer participated through administrator/RN Lynne Wikle and assistant administrator Judi Faas.

ISSUE:

Did claimant voluntarily quit the employment with good cause attributable to employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full-time as a resident care assistant and was separated from employment on September 5, 2011. Her last day of work was August 30, 2011 when she left work early without notice to her supervisor and was a no call-no show on September 3, 4 and 5, 2011. Fass called claimant each of those days, left a message asking why she had left her shift, and that she was scheduled to work those days. Fass did so again on September 7 and 9, 2011. Her doctor was supposed to have faxed an excuse on August 29 or 30, 2011. It was not done. Claimant called several months later asking if she still had a job but did not explain why she had not reported or communicated since then. The employer's policy provides that no call-no show absences for two consecutive workdays is considered a voluntarily quitting of employment.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant's separation from the employment was 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.

871 IAC 24.25(4) 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:

(4) The claimant was absent for three days without giving notice to employer in violation of company rule.

An employer is entitled to expect its employees to report to work as scheduled or to be notified when and why the employee is unable to report to work. Inasmuch as the claimant failed to report for work or notify the employer for three consecutive workdays in violation of the employer policy, the claimant is considered to have voluntarily left employment without good cause attributable to the employer. Benefits are withheld.

DECISION:

The October 5, 2012 (reference 02) decision is affirmed. Claimant voluntarily left the 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, provided she is otherwise eligible.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/pjs