

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JOYCE M KANE**  
Claimant

**APPEAL NO. 15A-UI-02349-NT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**BEATON INC**  
Employer

**OC: 01/25/15**  
**Claimant: Appellant (1)**

Section 96.5(1) – Voluntary Leave

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from a representative's decision dated February 12, 2015 (reference 01) which denied unemployment insurance benefits. After due notice was provided, a telephone hearing was held on March 25, 2015. Claimant participated. The employer participated by Ms. Kathy Frerichs, Controller, and Ms. Robin Flynn, Manager.

**ISSUE:**

At issue is whether the claimant was discharged for misconduct in connection with her work.

**FINDINGS OF FACT:**

Having considered all of the evidence in the record, the administrative law judge finds: Joyce Kane was employed by the captioned employer d/b/a Burger King from September 20, 2012 until January 11, 2015 when she was discharged by the employer. Ms. Kane was employed as a part-time shift supervisor and was paid by the hour. Her immediate supervisor was Robin Flynn.

Ms. Kane left her employment on January 12, 2015 in anticipation that she would be discharged if she failed to report to work later that day by not reporting for scheduled work or providing a doctor's note verifying her need to be absent on that date.

Because Ms. Kane had repeatedly called off work on days where she was scheduled to be the "closer" at night and the employer had warned Ms. Kane that in the future that if she called off work due to illness on date that she was scheduled to close the facility, she would be expected to provide a doctor's note verifying her need to be absent that day.

Ms. Kane had called off work due to illness on Saturday, January 10, 2015 and had not responded to repeated calls from her employer that evening. In the messages, the claimant's manager reminded Ms. Kane of the rule that she would be fired if she did not provide some form of medical documentation of her need to be absent. Although Ms. Kane was not scheduled to work until later in the day on Sunday, January 11, 2015; Ms. Kane reported to the restaurant and turned in her uniforms and company keys. The claimant lacked medical insurance coverage and did not want to pay for a doctor's office visit for the illness that she thought to be the "flu."

## **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.

The evidence in the record establishes that Ms. Kane had been previously warned that because she had repeatedly failed to report for shifts were she was expected to work until the facility closed, that she would be required to provide some sort of medical documentation in the future to establish that her calling off sick from work was for a valid reason. When the claimant called off work on Saturday, January 10 stating illness as the reason, the manager called the claimant and left a message reminding the claimant that she would be fired if she failed to report for work and did not supply medical documentation to support her need to be absent. The employer, at the time, was issuing a verbal reminder to the claimant for her need to supply medical documentation and intended to issue the claimant a written warning when she next reported to work.

Ms. Kane was scheduled to work the next day of Sunday, January 11, 2015 but chose to turn in her uniforms and keys prior to the beginning of her next scheduled work shift that day in anticipation that she might be discharged from employment. At the time that the claimant turned in her uniforms and keys, no decision had been made by the employer to discharge Ms. Kane from her work and the employer's requirement that she supply medical documentation to support her need to be absent was reasonable under the circumstances. The claimant elected to quit her job in anticipation that she would be discharged. She did not follow the employer's reasonable job requirements. The claimant, if ill, had the option of going to neighborhood clinics and hospital emergency rooms to obtain necessary medical documentation at little or no cost to the claimant but elected not to do so.

Because the claimant left the employment without good cause that was attributable to the employer, she is disqualified for benefits until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, and she is otherwise eligible.

## **DECISION:**

The representative's decision dated February 12, 2015 (reference 01) is affirmed as modified. The portion of the determination disqualifying the claimant from receiving unemployment insurance benefits until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, and she is otherwise eligible, is affirmed. The portion of the determination finding that the claimant was discharged under disqualifying conditions is modified to find that the claimant left employment without good cause attributable to the employer.

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Terence P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

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