

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LINDA K BARNES

Claimant

APPEAL NO. 09A-UI-11554-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

LUTHERAN HOMES SOCIETY

Employer

OC: 07/12/09

Claimant: Appellant (1)

Section 96.5-1-d - Voluntary Quit for Medical Reasons

STATEMENT OF THE CASE:

Linda Barnes (claimant) appealed a representative's August 6, 2009 decision (reference 02) that concluded she was not eligible to receive unemployment insurance benefits because he had voluntarily quit employment with Lutheran Homes Society (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on August 26, 2009. The claimant participated personally. The employer participated by Kris Stalkfleet, Human Resources Director. The employer offered and Exhibit One was received into evidence.

ISSUE:

The issue is whether the claimant is denied unemployment insurance benefits because she voluntarily quit work without good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on May 26, 2005, as a full-time certified nurses' aide. The claimant signed for receipt of the employer's handbook on May 26, 2005. The handbook indicates that an employee must notify the employer of an absence two hours prior to the start of the shift.

On April 2, 2009, the claimant suffered a non-work-related injury. She notified the employer and requested Family Medical Leave (FMLA). Her leave was granted from April 2 through May 29, 2009. The claimant was given a copy of the paperwork. The claimant did not contact the employer after May 29, 2009.

On June 4, 2009, the employer sent the claimant a letter and the claimant signed for receipt on June 5, 2009. The claimant did not contact the employer. On July 2, 2009, the employer sent the claimant another certified letter. A note was left for the claimant by the United States Postal Service on July 3, 2009, indicating that the claimant had a certified letter. The claimant did not collect the letter. On July 13, 2009, the claimant told the employer that she had been released

by her physician to return to work. The employer told the claimant that she no longer was employed.

REASONING AND CONCLUSIONS OF LAW:

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

A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980). The claimant's intention to voluntarily leave work was evidenced by her actions. She stopped appearing for work or notifying the employer of her absences. There was no evidence presented at the hearing of good cause attributable to the employer. The claimant voluntarily quit without good cause attributable to the employer. Benefits are denied.

DECISION:

The representative's August 6, 2009 decision (reference 02) is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times the claimant's weekly benefit amount, provided the claimant is otherwise eligible.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/pjs