

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**IRENE E HAUT**  
Claimant

**APPEAL NO. 07A-UI-07799-C**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CHRISTIAN RETIREMENT HOMES INC**  
Employer

**OC: 07/23/06 R: 04**  
**Claimant: Appellant (1)**

Section 96.5(1) – Voluntary Quit

**STATEMENT OF THE CASE:**

Irene Haut filed an appeal from a representative's decision dated August 8, 2007, reference 02, which denied benefits based on her separation from Christian Retirement Homes, Inc. After due notice was issued, a hearing was held on October 29, 2007 in Davenport, Iowa. Ms. Haut participated personally and offered additional testimony from Paul Haut. Exhibits A through D were admitted on Ms. Haut's behalf. The employer participated by Kathy Walker, Human Resources Director, and Cinda Matter, Housekeeping Director. Exhibits One through Six were admitted on the employer's behalf.

**ISSUE:**

At issue in this matter is whether Ms. Haut was separated from employment for any disqualifying reason.

**FINDINGS OF FACT:**

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Haut began working for Christian Retirement Homes, Inc. on January 4, 2007 and last performed services on April 29. She was employed full time in housekeeping. She was initially granted medical leave beginning April 30 and was to return to work on June 18. The leave was to obtain treatment for thyroid cancer. On June 8, Ms. Haut requested an extension of her leave in order to have surgery to repair her vocal cords. The leave was approved for the period from June 18 through July 16.

On June 29, Ms. Haut's husband was at the facility to pay his wife's insurance premiums. He spoke to Cinda Matter and told her he and his wife would be in to talk with the employer the following week. After this conversation, the employer checked its records to determine when Ms. Haut was expected back to work. The employer reviewed the "Certification of Health Care Provider" completed by Dr. Tomek on June 13. The certification indicated that Ms. Haut could continue working until June 20 and then have restricted duty for the following two weeks. Dr. Tomek indicated that the expected duration of the leave was from June 20 through July 5. The employer interpreted this to mean that Ms. Haut could return to work on July 5.

The employer contacted Ms. Haut on July 2 and advised her that she was released to return to work and was expected to return on July 5. Ms. Haut indicated she was not aware she had been released and would contact her doctor to obtain a statement releasing her to return to work. The employer did not hear further from her and she did not return to work on July 5. Ms. Haut did not advise the employer that she was having difficulty obtaining a release to return on July 5. She did not indicate that she felt physically unable to return on July 5. When the employer had not heard from her, a letter was sent to Ms. Haut on July 9 advising her that she was presumed to have quit because she failed to return to work or contact the employer on July 5, 6, or 9. The employer has a written policy, which provides that three consecutive unreported absences will be considered a voluntary quit.

Ms. Haut was under the care of at least three doctors during the period beginning April 30. On July 11, Dr. Lohmuller released her to return to work without restrictions on July 16, 2007. She did not re-offer her services to the employer at that point because she had been advised of her separation from the employment.

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

Ms. Haut was off work beginning April 30 for medical reasons as verified by her doctor. The employer advised her on June 2 that it believed she had been released to return on July 5. The employer's position was based on Dr. Tomek's June 13 certification. Ms. Haut did not offer the employer any doctor's statement indicating she could not return on July 5. In the absence of any contradictory medical statement and any statement by Ms. Haut that she felt physically unable to return, it was reasonable for the employer to expect her to work on July 5. It is true that she had been approved for medical leave until July 16. It was not unreasonable for the employer to expect her to return sooner if medically able to do so.

Although she knew the employer expected her to return to work on July 5, Ms. Haut did not return or contact the employer to indicate why. She did not notify the employer that she was having difficulty obtaining a release to return on July 5. Although she may have been putting forth her best efforts to obtain a release, the employer was not made aware of this fact. While it may have been reasonable for her to remain off work until she obtained the release necessary to return, she had an obligation to notify the employer of her situation. Instead, Ms. Haut remained off work on July 5, 6, and 9 without notice to the employer. The fact that she had good cause for not reporting to work did not constitute good cause for not notifying the employer she would not be reporting as scheduled.

An individual who is absent for three consecutive days in violation of a known company rule is presumed to have quit without good cause attributable to the employer. See 871 IAC 24.25(4). For the reasons stated herein, it is concluded that the representative's decision was correct and shall be affirmed. Whether she had been released or not, the disqualification is based on Ms. Haut's failure to notify the employer of her intentions when she knew she was scheduled to work.

#### **DECISION:**

The representative's decision dated August 8, 2007, reference 02, is hereby affirmed. Ms. Haut quit her employment for no 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 job insurance benefit amount, provided she satisfies all other conditions of eligibility.

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Carolyn F. Coleman  
Administrative Law Judge

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Decision Dated and Mailed

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