

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

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Appeal Number: 04A-UI-04820-H2T
OC 04-04-04 R 03
Claimant: Appellant (1)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5-1 – Voluntary Leaving
Section 96.5-2-a – Discharge for Misconduct

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the April 21, 2004, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on May 19, 2004. The claimant did participate and was represented by Thomas Currie, Attorney at Law. Participating as a witness for the claimant was Kari Robinson. The employer did participate through Gwen Dettbarn, Director of Nursing, Monica Hooper, Director of Safety, Steve Doud, Administrator, Beth Noe Business Office Manager and was represented by Peg Heenan of Johnson & Associates.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a CNA full time beginning April 25, 2003 through October 22, 2004 when she voluntarily quit her job. The claimant received a copy of an October 1, 2003 fax note that Steve Doud had intended to send to Monica Hooper, the company safety director. Mr. Doud was frustrated with the employer's third party benefits administrator's handling of some pharmacy bills that needed to be paid on behalf of the claimant and another employee Karen Glick. The fax Mr. Doud sent was inadvertently misdirected to a hotel in Des Moines. Kari Robinson received the fax and sent it to the claimant. The claimant believed that the fax was threatening to her so she stopped going to work. The claimant never made any attempt herself to contact the employer to ask what the fax was about. The other documents include with the fax besides Mr. Doud's note clearly indicate that Mr. Doud was attempting to have Gallagher Bassett Services pay pharmacy bills on behalf of the claimant and another coworker. According to the uncontroverted testimony of Mr. Doud, the claimant's counsel did not ever personally contact Mr. Doud, nor did he return a phone call Mr. Doud placed to him. The other employee mentioned in the fax is still an employee of the employer's and has not been harmed in any way. The claimant's argument that she was not scheduled for work after her vacation is not credible. The employer had no knowledge at the time the late October schedule was made that the claimant was in any way unhappy or 'fearful' as she had not told them anything, nor had anyone on her part. The schedule submitted by the claimant for the period from October 16, through October 29, 2003 is so clearly different than the other schedules she submitted that it is clear it was not the current schedule. All of the schedules have writing and notations on them but for the one the claimant submitted to support her claim.

REASONING AND CONCLUSIONS OF LAW:

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

The claimant argues that after receiving Mr. Doud's fax, which admittedly was not directed at her she was too fearful to return to her work. It belies credibility to believe that if Mr. Doud was actually trying to threaten the claimant he would send a fax to another person, thereby incriminating himself. When the claimant received the fax she had a duty to investigate. She may have assigned that duty to her attorney, but the duty remained with her or her representative. A simple call to Mr. Doud would have immediately cleared up any misunderstanding. The fax clearly does not threaten the claimant. There is absolutely no mention that Mr. Doud wants in any way to harm the claimant. A clear reading of all the documents in the fax clearly indicates to even a reader unfamiliar with the circumstances that Mr. Doud was merely trying help the claimant and another coworker by getting pharmacy bills paid for them. Under these circumstances, it was unreasonable for the claimant to just stop showing up for work. The claimant's actions, that is her failure to report to work, clearly indicate an intention to quit her job. The claimant's leaving was without good cause attributable to the employer. Benefits are denied.

DECISION:

The April 21, 2004, reference 01, decision is affirmed. The claimant voluntarily left her employment without good cause attributable to the employer. Benefits are denied

tkh/kjf