

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

JANET R HUTSON  
528 N SIERRA DR  
COUNCIL BLUFFS IA 51503

BETHANY LUTHERAN HOME INC  
7 ELLIOTT ST  
COUNCIL BLUFFS IA 51503

Appeal Number: 05A-UI-01687-JT  
OC: 01/16/05 R: 01  
Claimant: Respondent (5)

**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.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.5(1) – Voluntary Quit  
871 IAC 24.26(21) – Quit in Lieu of Discharge

STATEMENT OF THE CASE:

Bethany Lutheran Home filed a timely appeal from the February 9, 2005, reference 02, decision that allowed benefits. After due notice was issued, a hearing was held on June 7, 2005, at the Workforce Development Center in Council Bluffs. Assistant Director of Nursing Alisha Jundt represented the employer and presented additional testimony through Administrator Mike Van Sickel, Director of Nursing Jan Klingensmith, and Human Resources Coordinator Cindy Schechlinger. Janet Hutson did not appear for the hearing and did not participate. Exhibits One through Twelve were received into evidence.

#### FINDINGS OF FACT:

Janet Hutson, L.P.N., was employed by Bethany Lutheran Home as a full-time nurse from July 14, 2003 until October 8, 2004, when she quit the employment in lieu of being discharged for misconduct.

On October 6, 2004, Assistant Director of Nursing Alisha Jundt received a report that Ms. Hutson had apparently thrown prescription medications into a trashcan instead of passing them to the residents in her care. Upon investigation, the employer determined that Ms. Hutson had failed to pass the medications to residents who needed them, had fraudulently recorded that she had passed the medications, and had discarded the medications in a wastebasket. The employer met with Ms. Hutson on October 7. At that time, Ms. Hutson provided false information regarding her conduct. The employer reprimanded Ms. Hutson by suspending her for three days, October 11 through 13. However, later the same day, the employer received a report that Ms. Hutson had been discussing the matter with other staff and had vowed to retaliate against the person who reported her. On October 8, Ms. Jundt and Administrator Mike Van Sickle met with Ms. Hutson. Mr. Van Sickle advised Ms. Hutson that in light of Ms. Hutson's false documentation and changing story, Ms. Hutson was a liability to the facility. Mr. Van Sickle gave Ms. Hutson the option of resigning or being discharged. Ms. Hutson elected to resign and provided a written resignation, which was accepted by the employer.

#### REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence in the record establishes that Ms. Hutson's voluntary quit was for good cause attributable to the employer.

An individual who voluntarily quits employment is disqualified for unemployment insurance benefits unless the quit was for good cause attributable to the employer. See Iowa Code Section 96.5(1). When an individual was compelled to resign when given the choice of resigning or being discharged, the quit is considered an involuntary leaving and is deemed to be for good cause attributable to the employer. See 871 IAC 24.26(21).

The evidence in the record establishes that Ms. Hutson quit the employment when faced with the option of resigning or being discharged. Based on the evidence in the record and application of the appropriate law, the administrative law judge concludes that Ms. Hutson's quit was for good cause attributable to the employer. Accordingly, Ms. Hutson is eligible for benefits, provided she is otherwise eligible, and the employer's account may be charged for benefits paid to Ms. Hutson.

#### DECISION:

The Agency representative's February 9, 2005, reference 02, decision is modified as follows. The claimant quit the employment. The claimant's quit was for good cause attributable to the employer. Benefits are allowed, provided the claimant is otherwise eligible. The employer's account may be charged for benefits paid to Ms. Hutson.

jt/kjw