

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**NICOLE L LETT**  
Claimant

**APPEAL NO. 09A-UI-05170-AT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**HCM INC**  
Employer

**Original Claim: 03/01/09  
Claimant: Respondent (2-R)**

Section 96.5-1 – Voluntary Quit

**STATEMENT OF THE CASE:**

HCM Inc., doing business as Denison Care Center, filed a timely appeal from an unemployment insurance decision dated March 25, 2009, reference 01, that allowed benefits to Nicole L. Lett. After due notice was issued, a telephone hearing was held April 29, 2009, with Ms. Lett participating. Administrator Steve Fitzgerald, Director of Nursing Dawn Berrier, and MDS Coordinator Penni Hanson participated for the employer. The administrative law judge takes official notice of Agency benefit payment records.

**ISSUE:**

Did the claimant voluntarily leave employment with good cause attributable to the employer?

**FINDINGS OF FACT:**

Nicole L. Lett began working for Denison Care Center on May 1, 2007. By October 2, 2008, she was working as a certified nursing assistant. In early October 2008, Ms. Lett told Director of Nursing Dawn Berrier that her work was conflicting with her studies. It was agreed upon that Ms. Lett would notify Ms. Berrier of her availability. Ms. Lett did not contact the employer again, because she did not wish to return to work there. The employer removed Ms. Lett from their roster of employees on December 26, 2008, after having had no contact from her.

Ms. Lett has received unemployment insurance benefits since filing a claim during the week of March 1, 2009.

**REASONING AND CONCLUSIONS OF LAW:**

The question is whether the evidence establishes that the claimant left work with good cause attributable to the employer. It does not

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 has the burden of proof. The claimant testified that she did not wish to return to work at Denison Care Center, and she did not dispute the employer's testimony that she was concerned that her employment was conflicting with her studies. While Ms. Lett may have had good personal cause for resigning, the evidence does not establish that the good cause was attributable to the employer. One who resigns because of general dissatisfaction with the work environment leaves work without good cause attributable to the employer. See 871 IAC 24.25(21). Benefits must be withheld.

Iowa Code section 96.3-7, as amended in 2008, provides:

7. Recovery of overpayment of benefits.

a. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

b. (1) If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5. However, provided the benefits were not received as the result of fraud or willful misrepresentation by the individual, benefits shall not be recovered from an individual if the employer did not participate in the initial determination to award benefits pursuant to section 96.6, subsection 2, and an overpayment occurred because of a subsequent reversal on appeal regarding the issue of the individual's separation from employment. The employer shall not be charged with the benefits.

(2) An accounting firm, agent, unemployment insurance accounting firm, or other entity that represents an employer in unemployment claim matters and demonstrates a continuous pattern of failing to participate in the initial determinations to award benefits, as determined and defined by rule by the department, shall be denied permission by the department to represent any employers in unemployment insurance matters. This subparagraph does not apply to attorneys or counselors admitted to practice in the courts of this state pursuant to section 602.10101.

The question of whether Ms. Lett must repay the benefits she has received is remanded to the Unemployment Insurance Services Division.

**DECISION:**

The unemployment insurance decision dated March 25, 2009, reference 01, is reversed. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. The question of repayment of benefits is remanded to the Unemployment Insurance Services Division.

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Dan Anderson  
Administrative Law Judge

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Decision Dated and Mailed

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