

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: 05A-UI-05462-ET  
OC: 11-14-04 R: 01  
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, 4<sup>th</sup> 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 Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the May 16, 2005, reference 02, decision that denied benefits. After due notice was issued, a hearing was held before Administrative Law Judge Julie Elder on June 9, 2005. The claimant participated in the hearing with her mother, Donna Eslick. Laurie Buckhahn, Director of Nursing; Ronda Howell, Registered Nurse; Jamie Starr, Licensed Practical Nurse; Mandy Motykowski, Licensed Practical Nurse; and Attorney Lynn Corbeil, participated in the hearing on behalf of 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 employed as a full-time CNA for Care Initiatives from May 12, 2003 to April 29, 2005. On April 26, 2005, the claimant complained to Director Of Nursing Laurie Buckhahn that the nurses did not like her, she was not getting any help and there was no teamwork. The claimant called Ms. Buckhahn approximately one hour later and repeated her complaints and Ms. Buckhahn told her that she was going to conduct an investigation and then would talk to her about her findings. On April 27, 2005, the claimant called Ms. Buckhahn and asked about switching her scheduled weekend shift and again talked about the problems she was having with other employees. Ms. Buckhahn stated she was still investigating the situation and would meet with the claimant April 29, 2005. Ms. Buckhahn's investigation determined the claimant had performance issues in that she did not follow directives when given, she did not always answer the call lights, she was on the phone a lot, she was "mean", she frequently complained and became angry when anyone checked her work or questioned her and she often made her rounds too quickly. There was no indication that any of the employees refused to help the claimant. Ms. Buckhahn met with the claimant April 29, 2005, and advised her of the results of her investigation. The claimant became angry and walked out of the meeting stating she was not "taking this anymore" and saying, "I'm not coming back." The employer was willing to work with the claimant and had no intention of terminating her employment despite the results of its investigation showing that the claimant was a major contributor to the problems she was complaining about.

#### REASONING AND CONCLUSIONS OF LAW:

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

In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. 871 IAC 24.25. Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3), (4). Leaving because of dissatisfaction with the work environment is not good cause. 871 IAC 24.25(21). The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code section 96.6-2. 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); Peck v. Employment Appeal Bd., 492 N.W.2d 438, 440 (Iowa Ct. App. 1992). The claimant demonstrated her intent to quit and acted to carry it out when she walked out of a meeting with the employer and stated she would not be returning. The employer had no intention of terminating the claimant's employment and was just beginning to address the problems complained about with the claimant when she walked out because she did not like what her co-workers said about her job performance. It is the claimant's burden to prove that the voluntary quit was for good cause that would not disqualify her. Iowa Code section 96.6-2. The

claimant has not demonstrated that her leaving was for good cause attributable to the employer. Consequently, benefits are denied.

DECISION:

The May 16, 2005, reference 02, decision is affirmed. The claimant voluntarily left her employment without 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 benefit amount, provided she is otherwise eligible.

je/pjs