

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KIRBY E WILLIAMS
Claimant

APPEAL NO. 10A-UI-08385-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CENTRAL IOWA HOSPITAL CORP
Employer

**Original Claim: 04/18/10
Claimant: Appellant (1)**

Section 96.5(1) – Quit

STATEMENT OF THE CASE:

The claimant, Kirby Williams, filed an appeal from a decision dated June 8, 2010, reference 04. The decision disqualified him from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on July 26, 2010. The claimant participated on her own behalf. The employer, Central Iowa Hospital Corporation (CIHC), participated by Human Resources Business Partner Amanda Berger.

ISSUE:

The issue is whether the claimant quit work with good cause attributable to the employer.

FINDINGS OF FACT:

Kirby Williams was employed by CIHC from October 28, 2009 until March 5, 2010 as a full-time patient care technician. During the course of her employment, she missed nine scheduled days of work due to personal and family illness. On February 19, 2010, Nurse Manager Denise Cundy issued her a written warning for absenteeism and notified her that she could be discharged if she missed any more work in the future. On that same day, Ms. Williams submitted a written resignation with a two-week notice because she was certain she would miss more work in the future and wanted to leave “on good terms” so she could be rehired.

REASONING AND CONCLUSIONS OF LAW:

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.

871 IAC 24.25(28) provides:

Voluntary quit without good cause. 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. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(28) The claimant left after being reprimanded.

The claimant quit after being given a written warning for absenteeism. Her job was in jeopardy only if she missed any work in the next few months. She was not given the choice of being discharged or resigning at the time the final warning was given. Ms. Williams' decision to resign because she feared she would not be able to avoid missing work in the future may constitute good personal cause but does not constitute good cause attributable to the employer. She is disqualified.

DECISION:

The representative's decision of June 8, 2010, reference 04, is affirmed. Kirby Williams is disqualified and benefits are withheld until she has earned ten times her weekly benefit amount, provided she is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/kjw