

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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**JANICE A BUSWELL**  
Claimant

**GRAPETREE MEDICAL STAFFING INC**  
Employer

**APPEAL NO. 14A-UI-07240-BT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 06/08/14**  
**Claimant: Appellant (1/R)**

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Iowa Code § 96.5-1 – Voluntary Quit  
871 IAC 24.27 – Voluntary Quit of Part-Time Employment

**STATEMENT OF THE CASE:**

Janice Buswell (claimant) appealed an unemployment insurance decision dated June 24, 2014 (reference 01) which held that she was not eligible for unemployment insurance benefits because she voluntarily quit her employment with Grapetree Medical Staffing, Inc. (employer) without good cause attributable to the employer. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on August 6, 2014. The claimant participated in the hearing. The employer participated through Jeanenne Kinnetz, Administrative Services Manager. Employer's Exhibit One was admitted into evidence.

**ISSUE:**

The issue is whether the claimant's voluntary separation from employment qualifies her to receive unemployment insurance benefits.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant worked as a part-time, on-call certified nursing assistant from November 6, 2013 through June 2, 2014 when the employer considered she had voluntarily resigned her position due to job abandonment. She last worked on May 17, 2014 but could not work her shifts after that due to loss of transportation. The claimant called in on May 18, 2014 and stated she could not work because her car was stolen.

The claimant emailed the employer on May 22, 2014 and stated that her car had not been stolen but had been repossessed. She said she could not work her shifts on May 23, 24, 25, 26 and 27, 2014. The employer advised the claimant she could not cancel her shifts via email. The claimant emailed the employer on May 30, 2014 to cancel her shift that night and the next night. She sent the email at 8:05 a.m. and the employer responded at 8:15 a.m. that same day. The employer told the claimant she could not cancel her shifts via email and that she needed to call the employer that day or it would be considered as a voluntary quit. The claimant never contacted the employer again and was sent a letter on June 2, 2014 which confirmed her resignation.

**REASONING AND CONCLUSIONS OF LAW:**

The issue is whether the claimant's voluntary separation from employment qualifies her to receive unemployment insurance benefits. She is not qualified to receive unemployment insurance benefits if she voluntarily quit without good cause attributable to the employer. Iowa Code § 96.5-1.

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980) and *Peck v. Employment Appeal Bd.*, 492 N.W.2d 438 (Iowa Ct. App. 1992). The claimant demonstrated her intent to quit and acted to carry it out by failing to work on and after May 18, 2014, due to loss of transportation. See 871 IAC 24.25(1).

It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify her. Iowa Code § 96.6-2. She has not satisfied that burden and her separation from this employer is disqualifying.

However, an individual who quits part-time employment without good cause, yet is otherwise monetarily eligible based on wages paid by other base-period employers, shall not be disqualified for voluntarily quitting the part-time employment. Benefit payments shall not be based on wages paid by the part-time employer and charges shall not be assessed against the part-time employer's account. Once the individual has met the requalification requirements, the wages paid from the part-time employment can be used for benefit payment purposes. 871 IAC 24.27.

Based on this regulation, this matter is remanded to the Claims Section to determine whether the claimant is monetarily eligible to receive unemployment insurance benefits when the wage credits the claimant earned while working for the employer are not used in determining the claimant's monetary eligibility or her maximum weekly benefit amount.

**DECISION:**

The unemployment insurance decision dated June 24, 2014 (reference 01) is affirmed. The claimant voluntarily quit her part-time employment for disqualifying reasons. Therefore, the employer's account will not be charged. This matter is remanded to the Claims Section to determine whether the claimant is monetarily eligible to receive unemployment insurance benefits and to determine what her maximum weekly benefit amount is when the wage credits the claimant earned from the employer are not taken into consideration to determine these two issues.

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Susan D. Ackerman  
Administrative Law Judge

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Decision Dated and Mailed

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