

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BRANDY A DICKSON
Claimant

APPEAL NO. 09A-UI-05002-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

CARE INITIATIVES
Employer

**Original Claim: 02-08-09
Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the March 20, 2009, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on April 27, 2009. The claimant did participate along with her witness, Jeffrey Dickson, her husband. The employer did participate through Jacalyn Gacke, Administrator, and was represented by Josh Burrows of TALX UC eXpress.

ISSUE:

Did the claimant voluntarily quit her employment without good cause attributable to the employer?

FINDINGS OF FACT:

Having reviewed the testimony and all of the evidence in the record, the administrative law judge finds: Claimant was employed as a CNA, full-time, beginning June 11, 2007, through February 8, 2009, when she voluntarily quit.

On December 20, 2008, the employer discovered that Fentanyl patches were being stolen from some of the residents of the facility. The employer began an investigation by trying to determine who had been working when the patches were stolen. The employer narrowed the suspects down to the claimant and another employee. Each was suspended from work for one day. The employer notified the Department of Inspections and Appeals and the local police department of the theft. DIA came to the facility and investigated, as well as the local police department. The employer instituted a procedure where two nurses at the beginning of each shift and the end of each shift would together verify that the Fentanyl patch was still on the resident. During the middle of a shift, another nurse would verify that the patch was still in place on the resident. The claimant and her coworker were brought back to work and assigned to perform their normal job duties on floors and hallways where residents did not use Fentanyl patches for pain control.

Prior to this event, the claimant had been told by the Administrator that her weekend-only schedule would have to change, as company policy required all full time employees to work rotating weekends. The claimant was clear at the hearing that she knew her schedule would change and that she was willing to work with the schedule change. The claimant made it clear at the hearing that she would have been willing to work with the schedule change had she not been investigated in the Fentanyl theft. The claimant voluntarily quit her job because the employer investigated her for theft of the Fentanyl patches. Continued work was available for the claimant if she had not quit.

REASONING AND CONCLUSIONS OF LAW:

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

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2).

The employer was obligated to investigate the theft of the Fentanyl patches and to report the incident both to the local police authority and to the Department of Inspections and Appeals. While the claimant may not have liked being investigated, the employer did what they were legally obligated to do in light of the theft of medication from a resident. The employer instituted a procedure so that the claimant could return to work after one day. The claimant explicitly stated that she was willing to work with the schedule change, but did not like the way the employer investigated the theft. Under these circumstances, the administrative law judge finds the employer acted in a reasonable manner to insure that legal notifications were made to the proper authorities and to insure that residents continued to receive their needed pain medications. The claimant could not expect the employer to fail to investigate her merely because of who she was or her work history. The employer was obligated to conduct the investigation and did not discipline the claimant as a result of the findings of the investigation. The employer did not create an intolerable work environment by acting to insure that a theft was reported and investigated and that residents continued to receive needed pain medication. Under these circumstances, the claimant's leaving was without good cause attributable to the employer and benefits are denied.

DECISION:

The March 20, 2009, reference 01, 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.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/kjw