

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LAKEYSHA N BELL
Claimant

APPEAL NO. 07A-UI-10399-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

COMPREHENSIVE SYSTEMS INC
Employer

**OC: 10/07/07 R: 02
Claimant: Appellant (1)**

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated November 5, 2007, reference 01, that concluded she voluntarily quit employment without good cause attributable to the employer. A telephone hearing was held on November 28, 2007. The parties were properly notified about the hearing. The claimant participated in the hearing. Cheryl Pringle participated in the hearing on behalf of the employer with a witness, Mike Frankie.

ISSUE:

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

FINDINGS OF FACT:

The claimant worked for the employer as a support staff person in the employer's residential home for disabled persons from November 17, 2006, to September 14, 2007. She was scheduled to work and agreed to work on Thursday, Friday, and every other weekend.

On September 16, 2007, the claimant was arrested and jailed for simple assault, which is a misdemeanor charge. Around the same time, the claimant was also getting ready to move to Mason City, Iowa. She wanted to be taken off her scheduled hours and have her status changed working on an on-call/as-needed basis, because she was moving to Mason City and did not have reliable transportation to work her scheduled hours in Charles City.

On September 17, 2007, after she was released from jail, the claimant called her supervisor, Maria Jensen, and told her that she wanted to be taken off her scheduled hours and have her status changed working on an on-call/as-needed basis because she was moving. Jensen informed her that she had to give two weeks' notice before she would be able to be taken off her scheduled hours. In addition, the claimant told Jensen about the simple assault charges she had pending. Jensen then said she would have to talk to the administrative officer, Mike Frankie, about the criminal charges.

Later, Jensen spoke with the claimant about the pending criminal charges. She told the claimant that Frankie said the employer no longer needed her services and she should reapply

for employment after the charges had been resolved. The claimant came in and signed exit interview papers on September 20, 2007. On the exit interview papers, she indicated that she was voluntarily quitting employment.

The claimant filed a new claim for unemployment insurance benefits with an effective date of October 7, 2007.

REASONING AND CONCLUSIONS OF LAW:

The unemployment insurance law provides for a disqualification for claimants who voluntarily quit employment without good cause attributable to the employer or who are discharged for work-connected misconduct. Iowa Code §§ 96.5-1 and 96.5-2-a.

The findings of fact show how I resolved the disputed factual issues in this case by carefully assessing of the credibility of the witnesses and reliability of the evidence and by applying the proper standard and burden of proof. I believe the claimant's testimony about what Jensen told her. I do not, however, conclude this means the claimant is eligible to receive benefits. When the claimant called the supervisor, she indicated that she no longer wanted to work her scheduled hours and instead wanted only on-call work. The bottom line is that the claimant intended to quit working her scheduled hours after two weeks. A claimant who is only willing to accept on-call work when the employer has scheduled hours available is not eligible for unemployment insurance benefits under the unemployment insurance rules. 871 IAC 24.22(2)i(3).

At most then, the employer's informing the claimant that her services were no longer needed amounted to preventing the claimant from working her scheduled hours for two weeks. Under the unemployment insurance rules, when an employee given notice of quitting at a future day, but is terminated immediately, the employee is eligible for benefits during the time period the employee is prevented from working. 871 IAC 24.26(12). In this case, however, the claimant would not be eligible for any benefits because she did not file for benefits until the week of October 7, 2007, which would have been after the two weeks were over.

DECISION:

The unemployment insurance decision dated November 5, 2007, reference 01, is affirmed. The claimant is disqualified from receiving unemployment insurance benefits until she has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/css