

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

**DEBBIE L STRAWHACKER**  
Claimant

**NEWTON VILLAGE INC**  
Employer

**APPEAL 15A-UI-05796-JCT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 04/05/15**  
**Claimant: Appellant (1)**

Iowa Code § 96.5(1) – Voluntary Quitting

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the May 6, 2015, (reference 01) unemployment insurance decision that denied benefits based upon separation. The parties were properly notified about the hearing. A telephone hearing was held on June 22, 2015. The claimant participated. The employer participated through Reda Daniels. Margie Criswell and Wallace Ubben testified. Brenda Colvin observed the hearing. No exhibits were offered or received into evidence.

**ISSUE:**

Did the claimant voluntarily quit the employment with good cause attributable to employer?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed part time as a care attendant and was separated from employment on March 25, 2015.

Prior to the claimant's separation, she was issued a warning in response to missing an in-service meeting on January 20, 2015. The employer's handbook states that missing an in-service meeting is counted as two no-call/no-shows, until the session is made up, and then it is reduced to one no-call show. The claimant had received permission not to attend based on her worker's compensation injury, which was limiting her ability to perform work at that time.

On March 12, the claimant was issued a warning for leaving early after she attended a physical therapy session related to her worker's compensation injury and left work without notification to her manager. The claimant believed based on her conversation with the therapist Kim, that her manager would be notified by Kim. On March 16, 2015, the claimant missed work when her transportation, by way of bus, neglected to pick her up. She called her manager, Mr. Ubben, and notified him she would not be in. The claimant missed her March 17, 2015, when she called as ill. The claimant no-call/no-showed on March 18 when she was still ill but failed to notify her employer. The claimant was not scheduled on March 19.

On March 20, the claimant had made arrangements with Ms. Criswell to pick up her personnel file, a request that had been delayed for some time. Ms. Criswell handled the records and was not the claimant's immediate supervisor. The claimant did not perform work but did pick up her file, which reflected her records as well as a warning about future no-call/no-shows after her March 18 absence would result in termination. The claimant assumed she was fired as a result of the document she read, but did not return to work, or contact her manager about the contents in her file or her personal circumstances. A message was left for the claimant on March 24, 2015 by Ms. Criswell, advising the claimant to come to work the next morning for a meeting and to perform her shift. The claimant showed up to the meeting on March 25, 2015 when the claimant returned her keys stating per the documentation, she knew she would be discharged for a no-call/no-show.

### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant's separation from the employment was without good cause attributable to the employer.

Iowa Code § 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.

Iowa Admin. Code r. 871-24.25(4) 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 § 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 § 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:

(4) The claimant was absent for three days without giving notice to employer in violation of company rule.

Generally, when an individual mistakenly believes they are discharged from employment, but was not told so by the employer, and they discontinue reporting for work, the separation is considered a quit without good cause attributable to the employer. In this case, the claimant had three consecutive shifts of no call/no show, on March 18, 20 and 24. The claimant picked up her personnel file on March 20, which included a warning that an additional no-call/no-show could result in her termination. The employer had no opportunity to present the warning to the claimant on March 20, since she no-call/no-showed that day. The claimant was left a voicemail advising her to come attend a meeting and attend her shift and she still believed based on the documentation she found in her file, which she requested, but never discussed the contents with her employer, that she had been fired. If the employer fired the claimant, she would not have been left a voicemail advising her to come in and go to the meeting and work her shift. Since the claimant did not follow up with management personnel or return to work, and her

assumption of having been fired was erroneous, her failure to continue reporting to work was an abandonment of the job.

An employer is entitled to expect its employees to report to work as scheduled or to be notified when and why the employee is unable to report to work. Inasmuch as the claimant failed to report for work or notify the employer for three consecutive workdays in violation of the employer policy, believing in error she would be fired due to the no call/no show, the claimant is considered to have voluntarily left employment without good cause attributable to the employer. Benefits are withheld.

**DECISION:**

The May 6, 2015, (reference 01) unemployment insurance decision is affirmed. The claimant voluntarily left the 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.

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Jennifer L. Coe  
Administrative Law Judge

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Decision Dated and Mailed

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