

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**SHUNDA L GRAHAM**  
Claimant

**APPEAL NO. 08A-UI-00302-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**MARRIOTT HOTEL SERVICES INC**  
Employer

**OC: 01/14/07 R: 03**  
**Claimant: Respondent (1)**

Iowa Code Section 96.5(1)(f) – Voluntary Separation for Compelling Reason

**STATEMENT OF THE CASE:**

Marriott Hotel Services filed a timely appeal from the December 31, 2007, reference 05, decision that allowed benefits. After due notice was issued, a hearing was held on January 24, 2007. Claimant Shunda Graham participated and presented additional testimony through Lead Line Cook Michael Porter and Madonna Little. Loretta Myers, Human Resources Manager, represented the employer and presented additional testimony through Kenneth Trainer, Executive Chef. The administrative law judge took official notice of the Agency's record of benefits disbursed to the claimant and received Exhibits One through Six into evidence.

**ISSUE:**

Whether the claimant left the employment for a compelling personal reason, missed no more than ten working days, returned to the employer as soon as the compelling reason was resolved, and was told no work was available.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Shunda Graham most recently worked for Marriott Hotel Services as a full-time dishwasher. Ms. Graham commenced that employment on September 13, 2007. On December 1, Ms. Graham's mother passed away. On the morning of December 1, Ms. Graham notified Lead Line Cook Michael Porter that her mother had passed away and that she needed to travel to Chicago to make funeral arrangements. Ms. Graham also notified Sous Chef Brian Watson that her mother had passed away, that she needed to travel to Chicago to make funeral arrangements and that she thought she would be able to return to work by December 8 or 9. Mr. Watson told Ms. Graham to take the time she needed. Ms. Graham traveled to Chicago on December 1. Ms. Graham had to come up with money to pay for the funeral before the funeral could occur. The wake and visitation occurred during December 6-7. While Ms. Graham was absent from work, she kept in daily contact with Lead Line Cook Michael Porter. Mr. Porter was one of the individuals Ms. Graham was allowed to call when she needed to be absent from work. Once Ms. Graham's mother had been laid to rest, Ms. Graham had to obtain the money she needed to return by bus to Iowa.

On Saturday, December 8, Ms. Graham was scheduled to work at 5:00 p.m. On Saturday morning, Ms. Graham notified Mr. Porter that she was having difficulty returning to Iowa and was not certain she would be back in time to appear for her evening shift. Ms. Graham called back later in the day and indicated she would not be able to appear for the shift. It was 6:00 p.m. when Mr. Porter remembered to tell Sous Chef Brian Watson that Ms. Graham would not be in that day, but would appear for her next scheduled shift the following Tuesday.

Ms. Graham arrived back in Iowa on Sunday, December 9. Ms. Graham was not scheduled to work on December 9 or 10. On Monday, December 10, Ms. Graham went to the workplace to collect her paycheck. Ms. Graham learned that Human Resources Manager Loretta Myers was holding her check. Ms. Graham made contact with Ms. Myers. Ms. Graham provided Ms. Myers with a copy of the wake and interment program concerning her mother's funeral. Ms. Myers advised Ms. Graham that she was being discharged for being a "no-call/no-show" for her shift on December 8, 2007. The employer had issued prior reprimands to Ms. Graham in connection with prior absences. Ms. Myers was not aware of the contact Ms. Graham had had with Mr. Watson and Mr. Porter, including the contact on December 8. While Ms. Graham was absent to attend to her mother's funeral, she missed four or five scheduled shifts.

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

Iowa Code section 96.5-1-f 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. But the individual shall not be disqualified if the department finds that:

f. The individual left the employing unit for not to exceed ten working days, or such additional time as may be allowed by the individual's employer, for compelling personal reasons, if so found by the department, and prior to such leaving had informed the individual's employer of such compelling personal reasons, and immediately after such compelling personal reasons ceased to exist the individual returned to the individual's employer and offered the individual's services and the individual's regular or comparable work was not available, provided the individual is otherwise eligible; except that during the time the individual is away from the individual's work because of the continuance of such compelling personal reasons, the individual shall not be eligible for benefits.

The weight of the evidence indicates that Ms. Graham was absent from the employment for a period that did not exceed ten working days. The evidence indicates that prior to the absence, Ms. Graham properly notified the employer of the compelling reason that required her to be temporarily away from the employment. The weight of the evidence indicates that the employer, through Sous Chef Brian Watson, approved the absence before it occurred. The evidence indicates that Ms. Graham returned to the employer as soon as the compelling reason for her absence ceased to exist. The evidence indicates that the employer refused to allow Ms. Graham to return to the employment.

Based on the evidence in the record and application of the appropriate law, the administrative law judge concludes that Ms. Graham separated from the employment for a reason that does not disqualify her for unemployment insurance benefits. Ms. Graham is eligible for benefits,

provided she is otherwise eligible. The employer's account may be charged for benefits paid to Ms. Graham.

**DECISION:**

The Agency representatives December 31, 2007, reference 05, decision is affirmed. The claimant separated from the employment for no disqualifying reason. The claimant is eligible for benefits, provided she is otherwise eligible. The employer's account may be charged for benefits paid to the claimant.

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James E. Timberland  
Administrative Law Judge

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Decision Dated and Mailed

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