

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

AUTUMN J SHEPARD
Claimant

APPEAL NO. 15A-UI-06656-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

KINSETH HOTEL CORPORATION
Employer

OC: 05/17/15
Claimant: Respondent (2)

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Kinseth Hotel Corporation (employer) appealed a representative's June 1, 2015, decision (reference 01) that concluded Autumn Shepard (claimant) was eligible to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for July 17, 2015. The claimant did not provide a telephone number for the hearing and, therefore, did not participate. The employer was represented by Jackie Nolan, Hearings Representative, and participated by Beth Bernal, Assistant General Manager, and Katherine Barry, Claim Specialist.

ISSUE:

The issue is whether the claimant was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on February 17, 2015, as a part-time guest service representative. The claimant stopped appearing for work after April 16, 2015. The employer assumed she quit work. Continued work was available had the claimant not resigned.

On May 16, 2015, the claimant sent a text to the employer saying she had been in the hospital and was ready to return to work. The employer told the claimant to call. The claimant called the employer. The employer told the claimant that because they had not heard from the claimant or received any doctor's notes, they filled out the separation paperwork.

The claimant filed for unemployment insurance benefits with an effective date of June 1, 2015. She received no benefits after the separation from employment. The employer participated personally at the fact-finding interview on May 29, 2015, by Katherine Barry.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant voluntarily quit work 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(20) 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:

(20) The claimant left for compelling personal reasons; however, the period of absence exceeded ten working days.

A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980). The claimant's intention to voluntarily leave work was evidenced by her actions. She was absent from work for personal reasons for more than ten working days. When an employee is absent from work for more than ten working days for compelling personal reasons, Her leaving is without good cause attributable to the employer. The claimant left work for more than ten working days for compelling personal reasons. Her leaving was without good cause attributable to the employer. The claimant voluntarily quit without good cause attributable to the employer. Benefits are denied.

DECISION:

The representative's June 1, 2015, decision (reference 01) is reversed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times the claimant's weekly benefit amount provided the claimant is otherwise eligible.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/mak