

**IOWA WORKFORCE DEVELOPMENT  
Unemployment Insurance Appeals Section  
1000 East Grand—Des Moines, Iowa 50319  
DECISION OF THE ADMINISTRATIVE LAW JUDGE  
68-0157 (7-97) – 3091078 - EI**

**ANDREA L THOMPSON  
2416 DOUGLAS ST  
SIOUX CITY IA 51104**

**MID-STEP SERVICES INC  
4303 STONE AVE  
SIOUX CITY IA 51106**

**Appeal Number: 06A-UI-03771-HT  
OC: 03/12/06 R: 01  
Claimant: Appellant (1)**

**This Decision Shall Become Final**, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4<sup>th</sup> Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.5(1) – Quit

STATEMENT OF THE CASE:

The claimant, Andrea Thompson, filed an appeal from a decision dated March 30, 2006, reference 02. The decision disqualified her from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on April 24, 2006. The claimant participated on her own behalf. The employer, Mid-Step Services, participated by Human Resources Coordinator Jan Hackett.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Andrea Thompson was employed by Mid-Step

Services from November 22, 2004 until February 28, 2006. She was a full-time residential living assistant.

On February 14, 2006, one of the clients living in the residence choked on a piece of steak and choked to death. The administrator was doing an initial investigation and questioned all of the assistants who had been present at the meal. Ms. Thompson felt he was blaming her for the incident and submitted her two-week resignation.

In the investigation done by the State of Iowa, no one was found to be at fault for the incident and no disciplinary action was taken against any individual. Continuing work was available to the claimant had she not resigned.

#### REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant is disqualified. The judge concludes she is.

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.

871 IAC 24.25(33) 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 section 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 section 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:

(33) The claimant left because such claimant felt that the job performance was not to the satisfaction of the employer; provided, the employer had not requested the claimant to leave and continued work was available.

The claimant quit because she felt she was being blamed for the death of the resident. However, the employer was merely doing an initial investigation and no one was individually blamed for the death. The claimant quit without good cause attributable to the employer and benefits are denied.

#### DECISION:

The representative's decision of March 30, 2006, reference 02, is affirmed. Andrea Thompson is disqualified and benefits are withheld until she has earned ten times her weekly benefit amount, provided she is otherwise eligible.

bgh/kkf