

FINDINGS OF FACT:

Having heard the testimony of the witness and having examined all of the evidence in the record, the administrative law judge finds: Helen J. Kitchen was employed as a restaurant manager by Hardees Food Systems, Inc. at the time her employment ended in September 2005. Ms. Kitchen worked her regular shift on September 20. She did not work or contact the employer on September 21, 2005. She was not scheduled to work on September 22. She was also scheduled to work on September 23 through 26. She neither reported to work nor contacted the employer on any of these days. The company has a policy which provides that three days of absence without contact will be treated as a voluntary quit.

Ms. Kitchen has received unemployment insurance benefits in the gross amount of \$129.00 since filing a claim effective September 25, 2005.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the claimant's separation from employment was a disqualifying event. It was.

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.

Ms. Kitchen became unemployed after missing three days of work without contacting her employer. The evidence also establishes that the employer has a policy providing that a separation under such circumstances is considered a voluntary quit. A provision of the Iowa Administrative Code found that 871 IAC 24.25(4) provides that separation under such circumstances is deemed to be a quit without cause attributable to the employer. Benefits are withheld.

Ms. Kitchen has received unemployment insurance benefits to which she is not entitled. They must be recovered in accordance with the provisions of Iowa Code section 96.3-7.

DECISION:

The unemployment insurance decision dated October 13, 2005, reference 01, is reversed. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. She has been overpaid by \$129.00

kkf/kjw