

**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**

**PEARLE D MCBURNEY
5708 HOLCOMB AVE
DES MOINES IA 50310**

**SCOTTISH RITE PARK INC
2909 WOODLAND AVE
DES MOINES IA 50312**

**Appeal Number: 05A-UI-11172-DWT
OC: 10/09/05 R: 02
Claimant: Respondent (2)**

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, 4th 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.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Scottish Rite Park, Inc. (employer) appealed a representative's October 28, 2005 decision (reference 01) that concluded Pearle D. McBurney (claimant) was qualified to receive unemployment insurance benefits, and the employer's account was subject to charge because the reasons for the claimant's employment separation did not disqualify the claimant from receiving benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on November 15, 2005. The claimant failed to respond to the hearing notice by contacting the Appeals Section prior to the hearing and providing the phone number at which she could be contacted to participate in the hearing. As a result, no one represented the claimant. Rick Peer, the food service manager, and Nicole Hammer appeared on the employer's behalf. Based on the evidence, the arguments of the employer, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the claimant voluntarily quit her employment for reasons that qualify her to receive unemployment insurance benefits, or did the employer discharge her for work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer on August 4, 2003. The claimant worked as a full-time dining room hostess.

Peer not at work October 7 through 10. When he returned to work on October 11, two employees left a note indicating the claimant had verbally abused a resident in his absence. On October 11, the employer told the claimant about the reported allegation of verbal abuse. The claimant denied she verbally abused any resident. After the employer gave the claimant details of the reported verbal abuse, the employer told the claimant that due to the seriousness of the allegation the employer had to investigate this allegation while the claimant was on a paid administrative leave. The claimant's other alternative was to submit her resignation and the employer would not investigate this allegation.

The claimant submitted her written resignation on October 11, 2005. The claimant quit for personal reasons and her resignation was effective immediately.

The claimant established a claim for unemployment insurance benefits during the week of October 9, 2005. As of November 21, the claimant has not filed any weekly claims.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quits employment without good cause or an employer discharges her for reasons constituting work-connected misconduct. Iowa Code §§96.5-1, 2-a. The facts establish the claimant voluntarily quit her employment on October 11, 2005, when she submitted her resignation. The employer did not force the claimant to quit.

The facts show the employer told the claimant about the allegation that had been made against her and that the employer either had to investigate the allegation or the claimant could resign. When the employer told the claimant about the choices available, the employer had no idea whether the allegations were true or not. As of October 11, the employer had not made any decision concerning the claimant's continued employment. The claimant decided to quit for personal reasons that do not qualify her to receive unemployment insurance benefits. As of October 28, 2005, the claimant is not qualified to receive unemployment insurance benefits.

DECISION:

The representative's October 28, 2005 decision (reference 01) is reversed. The claimant voluntarily quit her employment for reasons that do not qualify her to receive unemployment insurance benefits. The claimant is disqualified from receiving unemployment insurance benefits as of October 9, 2005. This disqualification continues until she has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The employer's account will not be charged.

dlw/tjc