

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

ROBERTA J WILLIAMS  
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BARKER, DAVID ET AL  
WINDING HILLS APTS  
1825 WINDING HILL RD  
DAVENPORT IA 52807

Appeal Number: 05A-UI-05925-SWT  
OC: 05/01/05 R: 04  
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 – Voluntary Quit

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated May 23, 2005, reference 01, that concluded the claimant had voluntarily quit employment without good cause. A telephone hearing was held on June 22, 2005. The claimant participated in the hearing. Carla Minnich participated in the hearing on behalf of the employer.

FINDINGS OF FACT:

The claimant worked full time for the employer as a housekeeper from October 2001 to June 15, 2004. She voluntarily quit employment to work as a housekeeper for Diamond Blue-Colonial Courts Apartments in Davenport, Iowa.

When the claimant was hired by Diamond Blue-Colonial Courts Apartments, she knew that she was considered a subcontractor and was responsible for paying her own payroll taxes.

Diamond Blue-Colonial Courts Apartments did not report the income the claimant received to Iowa Workforce Development Department for unemployment insurance purposes.

The claimant applied for unemployment insurance benefits with an effective date of May 1, 2005, after her work with Diamond Blue-Colonial Courts Apartments ended.

#### REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant voluntarily quit employment without good cause attributable to the employer.

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(19) 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:

- (19) The claimant left to enter self-employment.

The claimant may not have thought she was self-employed but that is how she was treated by Diamond Blue-Colonial Courts Apartments since they did not report her wages to the Iowa Workforce Development Department and she was responsible for her own taxes. In order to change this result, the claimant is required to make a request to have omitted wages added to her wage records. Unless and until the Agency determines that the claimant was an employee of Diamond Blue-Colonial Courts Apartments, she must be considered to have voluntarily quit employment to enter self-employment. She, therefore, is disqualified from receiving unemployment insurance benefits until she has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

#### DECISION:

The unemployment insurance decision dated May 23, 2005, reference 01, is affirmed. The claimant is disqualified from receiving unemployment insurance benefits until she has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

saw/sc