

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

AMY E WHITNEY  
120 ROSEBUD LN  
COUNCIL BLUFFS IA 51503

KINSETH HOTEL CORP  
c/o UNEMPLOYMENT SERVICES LLC  
PO BOX 749000  
ARVADA CO 80006-9000

Appeal Number: 06A-UI-04804-HT  
OC: 04/09/06 R: 01  
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, 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 employer, Kinseth, filed an appeal from a decision dated April 26, 2006, reference 01. The decision allowed benefits to the claimant, Amy Whitney. After due notice was issued, a hearing was held by telephone conference call on June 7, 2006. The claimant participated on her own behalf. The employer participated by General Manager Amy Harrison and was represented by Unemployment Services in the person of Lucy Reed. Exhibit One was admitted into the record.

The claimant gave testimony then disconnected from the conference call before the employer's representative could cross examine or offer the exhibit.

#### 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: Amy Whitney was employed by Kinseth from March 3, 2004 until November 1, 2005. She was a full-time front desk clerk working varied hours. The schedule for the employees is posted behind the front desk two weeks in advance.

The claimant's last day of work was October 26, 2005. She was a no-call/no-show for her scheduled shifts on October 29, 30, and November 1, 2005.

Ms. Whitney filed a claim for unemployment benefits with an effective date of April 9, 2006. The records of Iowa Workforce Development indicate no benefits have been paid as of the date of the hearing.

#### 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(4) 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:

- (4) The claimant was absent for three days without giving notice to employer in violation of company rule.

The claimant failed to come to work or notify her supervisor of her absence for three consecutive days. Under the provisions of the above Administrative Code section this is a voluntary quit without good cause attributable to the employer. The claimant is disqualified.

The claimant was scheduled to work for three days and did not appear for work nor did she contact the employer to notify anyone of her absences. Under the provisions of the above Administrative Code section, this is a voluntary quit without good cause attributable to the employer. The claimant is disqualified.

DECISION:

The representative's decision of April 26, 2006, reference 01, is reversed. Amy Whitney is disqualified and benefits are withheld until she has earned ten times her weekly benefit amount, provided she is otherwise eligible.

bgh/kkf