

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

**TABITHA L HUMPAL**  
Claimant

**COMES INVESTMENTS INC**  
Employer

**APPEAL NO: 10A-UI-05673-ST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 03/07/10**  
**Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Quit  
871 IAC 24.25(4) – Job Abandonment

**STATEMENT OF THE CASE:**

The claimant appealed a department decision dated April 2, 2010, reference 02, that held she voluntarily quit without good cause attributable to her employer on February 7, 2010, and benefits are denied. A telephone hearing was held on June 1, 2010. The claimant participated. Ed McGowan, Operations Manager, Sonya Durbin, Shift Manager, and Christina Nehman, GM, participated for the employer.

**ISSUE:**

Whether the claimant voluntarily quit without good cause attributable to the employer.

**FINDINGS OF FACT:**

The administrative law judge having heard the testimony of the witnesses, and having considered the evidence in the record, finds: The claimant worked for the employer as a part-time server from July 7, 2009 to January 30, 2010. The employer sent the claimant home from work early due to customer complaints about her service. The claimant questioned her shift manager about being sent home early, so she called GM Nehman. Nehman told the claimant the employer was getting customer complaints about not waiting on tables and she should go home and get some rest.

The claimant was scheduled to work on January 31, February 2, 3, 5, 6 and 7th. The claimant was a no-call, no-show to work for these days. The employer terminated the claimant on February 8, 2010 for failing to call in and report for work. The claimant did not return to work, because she believed that management had fired her. The claimant waited until February 11 to go in and claim her last two paychecks.

**REASONING AND CONCLUSIONS OF LAW:**

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 administrative law judge concludes the claimant voluntarily quit without good cause attributable to her employer due to job abandonment effective February 7, 2010.

The employer instructed the claimant to leave work early on January 30, and there was nothing said to claimant that she was fired. The failure of the claimant to call-in and check on her employment status is consistent with an employee who has abandoned her job. The fact that claimant waited until February 11 to claim two paychecks is indicative of a person who does not want to maintain an employment relationship.

**DECISION:**

The department decision dated April 2, 2010, reference 02, is affirmed. The claimant voluntarily quit without good cause due to job abandonment on February 7, 2010 when she failed to check

in for work. Benefits are denied until the claimant requalifies by working in and being paid wages for insured work equal to ten times her weekly benefit amount, provided the claimant is otherwise eligible.

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Randy L. Stephenson  
Administrative Law Judge

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Decision Dated and Mailed

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