

**IN THE IOWA ADMINISTRATIVE HEARINGS DIVISION  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**ERINEQUA O SNEED**  
Claimant

**APPEAL NO. 23A-UI-08510-B2-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**KINSETH HOTEL CORPORATION**  
Employer

**OC: 08/06/23  
Claimant: Respondent (2)**

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Iowa Code § 96.5-1 – Voluntary Quit  
Iowa Code § 96.3-7 – Recovery of Overpayment of Benefits  
871 IA Admin. Code 24(10) – Employer Participation in Fact Finding

**STATEMENT OF THE CASE:**

Employer filed an appeal from a decision of a representative dated August 28, 2023, (reference 01) which held claimant eligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on September 22, 2023. Employer participated by hearing representative Anthony Scott and witnesses Thetstka Cruz and Max Vizcarra. Claimant failed to respond to the hearing notice and did not participate. The administrative law judge take notice of the administrative file for purposes of fact finding records and for purposes of amounts of unemployment benefits received by claimant.

**ISSUES:**

Whether claimant voluntarily quit with good cause attributable to employer?

Whether claimant was overpaid benefits?

If claimant was overpaid benefits, should claimant repay benefits or should employer be charged due to employer's participation or lack thereof in fact finding?

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on August 2, 2023. Employer discharged claimant on August 8, 2023 because claimant had been a no call / no show for work for three consecutive days. This is deemed a voluntary quit under company policies.

Claimant worked as a full time housekeeper for employer. At the time of her hire, she signed for and received an employee handbook that listed company rules and regulations, including attendance policies. Included within those policies were procedures for calling off work that included calling the front desk and a supervisor. Also included is a statement that three days of no call / no show for work is deemed a voluntary quit.

On August 3, 4, and 5 of 2023 claimant was scheduled to work her regular shift for employer. Claimant did not show for work on any of those days, nor did she call of work according to company policy. (Claimant did text a supervisor on August 4, 2023 stating that she was going to be a few hours late to work as she was having bad menstrual cramps and was going back to bed. Employer never heard further from claimant and she did not show up to work at all on that date.)

Claimant has received unemployment benefits in the amount of \$1,825.00.

Employer did not substantially participate in fact finding in this matter as employer did not answer the phone call from IWD, nor respond to a separate call made from IWD to Equifax. Employer stated that they 'received' the notice of fact finding on August 29, 2023. Employer did not know how Equifax defined 'received'. Employer's representative did not know if that was the date received in the mail room, sorted through the mail room, received by the proper state division, or received by the party who is to handle the matter. The documents were mailed to employer on August 21, 2023. Employer did not forward a copy of the envelope containing the Notice of Fact Finding such that a date stamp could be entered into the record.

### **REASONING AND CONCLUSIONS OF LAW:**

The administrative law judge holds that the evidence has failed to establish that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship by not calling off work or showing up for work for three consecutive days.

Iowa Code section 96.5(1) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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.

Iowa Admin. Code r. 871-24.25(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 voluntarily quit her job by being a no call / no show for three days. Benefits are denied.

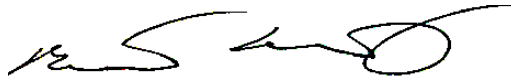
The overpayment issue was addressed. The claimant is overpaid \$1,825.00 in unemployment benefits.

The issue of employer participation was addressed. Employer did not substantially participate in unemployment benefits as employer did not participate in the fact finding hearing and did not provide substantial evidence as to why they did not participate.

**DECISION:**

The decision of the representative dated August 28, 2023, (reference 01) is reversed. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.

The claimant has been overpaid \$ 1,825.00 in regular unemployment insurance benefits, but she is not obligated to repay the agency those benefits. The employer did not participate in the fact-finding interview and its account shall be charged.



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**Blair Bennett** | Administrative Law Judge II  
Iowa Department of Inspections & Appeals

September 25, 2023  
Decision Dated and Mailed

bab/scn

**APPEAL RIGHTS.** If you disagree with the decision, you or any interested party may:

1. Appeal to the Employment Appeal Board within fifteen (15) days of the date under the judge's signature by submitting a written appeal via mail, fax, or online to:

**Employment Appeal Board  
4<sup>th</sup> Floor – Lucas Building  
Des Moines, Iowa 50319  
Fax: (515)281-7191  
Online: [eab.iowa.gov](http://eab.iowa.gov)**

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. *There is no filing fee to file an appeal with the Employment Appeal Board.*

AN APPEAL TO THE BOARD SHALL 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.

An Employment Appeal Board decision is final agency action. If a party disagrees with the Employment Appeal Board decision, they may file a petition for judicial review in district court.

2. If you do not file an appeal of the judge's decision with the Employment Appeal Board within fifteen (15) days, the decision becomes final agency action, and you have the option to file a petition for judicial review in District Court within thirty (30) days after the decision becomes final. Additional information on how to file a petition can be found at [www.iowacourts.gov/efile](http://www.iowacourts.gov/efile). *There may be a filing fee to file the petition in District Court.*

**Note to Parties:** YOU MAY REPRESENT yourself in the appeal or 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.

**Note to Claimant:** It is important that you file your weekly claim as directed, while this appeal is pending, to protect your continuing right to benefits.

**SERVICE INFORMATION:**

A true and correct copy of this decision was mailed to each of the parties listed.

**DERECHOS DE APELACIÓN.** Si no está de acuerdo con la decisión, usted o cualquier parte interesada puede:

1. Apelar a la Junta de Apelaciones de Empleo dentro de los quince (15) días de la fecha bajo la firma del juez presentando una apelación por escrito por correo, fax o en línea a:

**Employment Appeal Board  
4th Floor – Lucas Building  
Des Moines, Iowa 50319  
Fax: (515)281-7191  
En línea: eab.iowa.gov**

El período de apelación se extenderá hasta el siguiente día hábil si el último día para apelar cae en fin de semana o día feriado legal. *No hay tarifa de presentación para presentar una apelación ante la Junta de Apelación de Empleo.*

UNA APELACIÓN A LA JUNTA DEBE ESTABLECER CLARAMENTE:

- 1) El nombre, dirección y número de seguro social del reclamante.
- 2) Una referencia a la decisión de la que se toma la apelación.
- 3) Que se interponga recurso de apelación contra tal decisión y se firme dicho recurso.
- 4) Los fundamentos en que se funda dicho recurso.

Una decisión de la Junta de Apelaciones de Empleo es una acción final de la agencia. Si una de las partes no está de acuerdo con la decisión de la Junta de Apelación de Empleo, puede presentar una petición de revisión judicial en el tribunal de distrito.

2. Si no presenta una apelación de la decisión del juez ante la Junta de Apelación de Empleo dentro de los quince (15) días, la decisión se convierte en una acción final de la agencia y tiene la opción de presentar una petición de revisión judicial en el Tribunal de Distrito dentro de los treinta (30) días. Puede encontrar información adicional sobre cómo presentar una petición en [www.iowacourts.gov/efile](http://www.iowacourts.gov/efile). *Puede haber una tarifa de presentación para presentar la petición en el Tribunal de Distrito.*

**Nota para las partes:** USTED PUEDE REPRESENTARSE en la apelación u obtener un abogado u otra parte interesada para que lo haga, siempre que no haya gastos para Workforce Development. Si desea ser representado por un abogado, puede obtener los servicios de un abogado privado o uno cuyos servicios se paguen con fondos públicos.

**Nota para el reclamante:** es importante que presente su reclamo semanal según las instrucciones, mientras esta apelación está pendiente, para proteger su derecho continuo a los beneficios.

**SERVICIO DE INFORMACIÓN:**

Se envió por correo una copia fiel y correcta de esta decisión a cada una de las partes enumeradas.