

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

TORISA S HALDA
Claimant

APPEAL NO. 18A-UI-08901-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

KINSETH HOTEL CORPORATION
Employer

OC: 07/29/18
Claimant: Respondent (2)

Iowa Code Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

The employer filed a timely appeal from the August 14, 2018, reference 01, decision that allowed benefits to the claimant provided she was otherwise eligible and that held the employer's account could be charged for benefits, based on the Benefits Bureau deputy's conclusion that the claimant was discharged on June 2, 2018 for no disqualifying reason. After due notice was issued, a hearing was held on September 12, 2018. Claimant Torisa Halda did not respond to the hearing notice instructions to register a telephone number for the hearing and did not participate. Beverly Maez of Employers Unity represented the employer and presented testimony through Missy Jackson. The administrative law judge took official notice of the Agency's record of benefits disbursed to the claimant, which reflects that no benefits have been disbursed to the claimant in connection with the July 29, 2018 original claim. Exhibit 1 was received into evidence.

ISSUES:

Whether Ms. Halda separated from the employment for a reason that disqualifies her for benefits or that relieves the employer's account of liability for benefits.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Torisa Halda was employed by Kinseth Hotel Corporation, d/b/a Econo Lodge Inn & Suites Fairgrounds in Des Moines, as a part-time housekeeper from April 27, 2018 until June 20, 2018, when she voluntarily quit by failing to appear for additional shifts and failing to make contact with employer until she came to the workplace on July 3, 2018 to collect her final paycheck. In the meantime, Ms. Halda was a no-call/no-show for several scheduled shifts. Under the employer's written attendance policy, the employer considered three no-call/no-show absences to indicate job abandonment. The attendance policy also required that Ms. Halda contact the employer's front desk prior to the scheduled start of her shift if she needed to be absent. The employer reviewed the attendance policy with Ms. Halda at the start of the employment. At the time

Ms. Halda ceased appearing for work, her employment was not in jeopardy and the employer continued to have work for her.

Ms. Halda established an original claim for benefits that was effective July 29, 2018, but made no weekly claims and received no weekly benefits. Kinseth Corporation is not a base period employer for purposes of the claim.

REASONING AND CONCLUSIONS OF LAW:

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.

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 698, 612 (Iowa 1980) and *Peck v. EAB*, 492 N.W.2d 438 (Iowa App. 1992). 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. See 871 IAC 24.25.

The evidence in the record establishes that Ms. Halda voluntarily quit the employment effective June 20, 2018 for personal reasons and without good cause attributable to the employer. Ms. Halda demonstrated an intention to voluntarily quit the employment by ceasing to report for scheduled shifts and by ceasing contact with the employer except for the purpose of collecting her final paycheck during the first week of July 2018. Ms. Halda is disqualified for benefits until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount. Ms. Halda must meet all other eligibility requirements. The employer's account shall not be charged for benefits.

DECISION:

The August 14, 2018, reference 01, decision is reversed. The claimant voluntarily quit the employment without good cause attributable to the employer. The quit was effective June 20, 2018. The claimant is disqualified for benefits until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount. The claimant must meet all other eligibility requirements. The employer's account shall not be charged for benefits.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/rvs