

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**BRITTANY A MCWILLIAMS**  
Claimant

**APPEAL NO. 09A-UI-08903-CT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**AMERISTAR CASINO CO BLUFFS INC**  
Employer

**Original Claim: 05/10/09  
Claimant: Respondent (2-R)**

Section 96.5(1) – Voluntary Quit  
Section 96.3(7) – Recovery of Overpayments

**STATEMENT OF THE CASE:**

Ameristar Casino Council Bluffs, Inc. (Ameristar) filed an appeal from a representative's decision dated June 10, 2009, reference 01, which held that no disqualification would be imposed regarding Brittany McWilliams' separation from employment. After due notice was issued, a hearing was held by telephone on July 8, 2009. The employer participated by Emily Jones, Team Relations Manager, and Amanda Lang, Casino Operations Shift Manager. Exhibits One and Two were admitted on the employer's behalf. Ms. McWilliams did not respond to the notice of hearing.

**ISSUE:**

At issue in this matter is whether Ms. McWilliams was separated from employment for any disqualifying reason.

**FINDINGS OF FACT:**

Having heard the testimony and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. McWilliams began working for Ameristar on April 3, 2007 and was last employed full time as a slot service specialist. Her last day at work was May 8, 2009, after which she stopped reporting for available work with no notice to the employer. The employer attempted to reach her by telephone but was unable to do so. She had not complained about any matters and her job was not in jeopardy when she stopped reporting for work.

Ms. McWilliams filed a claim for job insurance benefits effective May 10, 2009. She has received a total of \$370.00 in benefits since filing the claim.

**REASONING AND CONCLUSIONS OF LAW:**

Ms. McWilliams abandoned her job when she stopped reporting for available work. An individual who leaves employment voluntarily is disqualified from receiving job insurance benefits unless the quit was for good cause attributable to the employer. Iowa Code

section 96.5(1). Ms. McWilliams did not participate in the hearing to explain why she stopped going to work. The evidence of record does not establish any good cause attributable to the employer for the separation. As such, she is not entitled to benefits.

Ms. McWilliams has received benefits since filing her claim. As a general rule, an overpayment of job insurance benefits must be repaid. Iowa Code section 96.3(7). If the overpayment results from the reversal of an award of benefits based on an individual's separation from employment, it may be waived under certain circumstances. An overpayment will not be recovered from an individual if the employer did not participate in the fact-finding interview on which the award of benefits was based, provided there was no fraud or willful misrepresentation on the part of the individual. This matter shall be remanded to Claims to determine if benefits already received will have to be repaid.

**DECISION:**

The representative's decision dated June 10, 2009, reference 01, is hereby reversed. Ms. McWilliams voluntarily quit her employment with Ameristar for no good cause attributable to the employer. Benefits are withheld until she has worked in and been paid wages for insured work equal to ten times her weekly job insurance benefit amount, provided she is otherwise eligible. This matter is remanded to Claims to determine the amount of any overpayment and whether Ms. McWilliams will be required to repay benefits.

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Carolyn F. Coleman  
Administrative Law Judge

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Decision Dated and Mailed

cfc/kjw