

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SHAY A DOUGLAS
Claimant

APPEAL NO. 14A-UI-01587-VST

**ADMINISTRATIVE LAW JUDGE
DECISION**

PILOT TRAVEL CENTERS LLC
Employer

OC: 01/05/14
Claimant: Respondent (2R)

Section 96.5-1 – Voluntary Quit
Section 96.3-7 – Overpayment of Benefits

STATEMENT OF THE CASE:

The employer filed an appeal from a representative's decision dated February 7, 2014, reference 02, which held that the claimant was eligible for unemployment insurance benefits. After due notice, a hearing was held on March 5, 2014, by telephone conference call. The claimant failed to respond to the hearing notice and did not participate. The employer participated by Jill Shade, the restaurant general manager. The record consists of the testimony of Jill Shade. Official notice is taken of agency records.

ISSUES:

Whether the claimant voluntarily quit for good cause attributable to the employer; and

Whether the claimant has been overpaid unemployment insurance benefits.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witness and having considered all of the evidence in the record, makes the following findings of fact:

The employer is a diesel truck stop located near Clear Lake, Iowa. The claimant was hired in late 2012. The employer does not know her exact date of hire. The claimant worked as a restaurant host. She baked bread; made sandwiches; and did cleaning as necessary. She was a full-time employee. Her last day of work was June 29, 2013, according to the representative's decision. She stopped showing up for work. The employer does not know the reason why she stopped coming to work. It may have been for personal issues in her life. The claimant did not participate in the hearing.

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.

A quit is a separation initiated by the employee. 871 IAC 24.1(113)(b). 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 claimant is not eligible for unemployment insurance benefits. She stopped coming to work after June 29, 2013. The employer does not know why she stopped coming to work. The claimant did not participate in the hearing and her reasons for failing to come to work are unknown. Since the claimant had the burden of proof to show that she left for good cause attributable to the employer and did not provide any evidence on why she abandoned her job, benefits are denied.

There is an issue of overpayment of benefits in this case. There is no indication that the fact-finding documents were provided to the parties. This case is remanded to the department to determine if there has been overpayment of benefits; the amount of the overpayment; whether the claimant should repay those benefits; and whether the employer participated in fact finding.

DECISION:

The decision of the representative dated February 7, 2014, reference 02, is reversed. Unemployment insurance benefits shall be withheld until the 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 overpayment issues are remanded to the department for determination.

Vicki L. Seeck
Administrative Law Judge

Decision Dated and Mailed

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