

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

ROBIN L MCMATH
TRLR 152
11325 - 140TH ST
DAVENPORT IA 52804-9562

CLARION HOTEL
5202 BRADY ST
DAVENPORT IA 52806

Appeal Number: 06A-UI-03737-JTT
OC: 03/05/06 R: 04
Claimant: Respondent (1)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party request the Appeals Section to reopen the record at the address listed at the top of this decision or appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

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.

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.

YOU MAY REPRESENT yourself in this appeal or you may 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. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5(1) – Voluntary Quit
871 IAC 24.26(4) – Intolerable or Detrimental Working Conditions

STATEMENT OF THE CASE:

Clarion Hotel appealed from an unemployment insurance decision dated March 20, 2006, reference 01, that allowed benefits. After due notice was issued, a hearing was held on April 20, 2006. Claimant Robin McMath participated. The employer failed to respond to the hearing notice instructions to provide a telephone number for the hearing and did not participate. The administrative law judge took official notice of the Agency administrative records regarding benefits disbursed to Ms. McMath.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Robin McMath was employed by Clarion Hotel until March 3, 2006, when she quit. On December 20, 2005 Clarion Hotel had took over ownership and operation of the Holiday Inn where Ms. McMath had been employed since October 2004. Ms. McMath had initially worked as a guest services agent and the front desk and was promoted to guest services supervisor. In June 2005, the hotel needed to fill the position of Director of Housekeeping. General Manager Ray Wagner approached Ms. McMath and persuaded her to take on the responsibilities of the director of housekeeping on a temporary basis. The discussion included a discussion about Ms. McMath's future at the front desk. The current guest services manager would be leaving the hotel in the near future. The employer would provide Ms. McMath with additional training regarding the front desk responsibilities, which would allow her to step into the guest services manager position. This training will take place while Ms. McMath was temporarily fulfilling the responsibilities of the director of housekeeping. Ms. McMath would become the front desk services manager upon previous guest services manager's departure. Ms. McMath agreed to a temporary reassignment to the housekeeping department.

Over the next several months, Ms. McMath repeatedly approached Mr. Wagner to inquire about additional training relevant to her future at the front desk. Mr. Wagner continued to delay. Mr. Wagner failed to take steps to hire a new director of housekeeping. When the front desk experienced an opening for a guest services supervisor, the position Ms. McMath had previously held, the employer hired someone from outside the hotel to fill that position. This occurred in the middle of February 2006. Ms. McMath became increasingly frustrated with Mr. Wagner's failure to fulfill the conditions of her temporary reassignment. On February 20, Ms. McMath participated in a meeting with Mr. Wagner and a human resources representative, during which she indicated she was no longer willing to continue in the housekeeping department. Ms. McMath indicated a willingness to work in any other area the employer needed her. Mr. Wagner gave no indication that Ms. McMath would be allowed to return to the front desk.

The last straw for Ms. McMath came on March 2. Ms. McMath was scheduled off for the day and had appropriately made Mr. Wagner aware that she would be scheduled off. Ms. McMath had been working hours over and above her normal schedule in the housekeeping department due to a shortage of staff in that department. Ms. McMath's stress load in housekeeping department had been steadily increasing, along with her frustration at not being allowed to return to the front desk. Ms. McMath came to the hotel for a monthly employee luncheon meeting. While she Ms. McMath was at hotel, Mr. Wagner quizzed Ms. McMath on why she was not working that day. Ms. McMath reminded Mr. Wagner that he had approved her schedule. Despite this fact, Mr. Wagner advised Ms. McMath that she need to let him know when she was taking days off. Ms. McMath appeared for work on March 3, performed her supervisory duties, but determined the situation was intolerable. Ms. McMath advised the human resources representative that she could not continue in the employment and quit.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence in the record establishes that Ms. McMath voluntary quit was for good cause attributable to the employer. It does.

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.

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.

Quits due to intolerable or detrimental working conditions are deemed to be for good cause attributable to the employer. See 871 IAC 24.26(4). The test is whether a reasonable person would have quit under the circumstances. See Aalbers v. Iowa Department of Job Service, 431 N.W.2d 330 (Iowa 1988) and O'Brien v. Employment Appeal Bd., 494 N.W.2d 660 (1993).

The evidence in the record establishes working conditions that a reasonable would find intolerable and which would prompt a reasonable person to quit the employment. Ms. McMath accepted a temporary reassignment to help the employer. Ms. McMath entered into the reassignment with an agreement as to the temporary nature of the assignment, an agreement that she would return to the front desk, and an agreement that she would be provided with ongoing training related to her eventual return to the front desk. The employer reneged on the terms of the reassignment and refused to provide an appropriate response to Ms. McMath's reasonable and increasing concerns.

DECISION:

The Agency representative's decision dated March 20, 2006, reference 01, is affirmed. The claimant quit the employment for good cause attributable to the employer. The claimant is eligible for benefits, provided she is otherwise eligible. The employer's account may be charged for benefits paid to the claimant.

jt/tjc