

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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**JEANETTE BEAR MOORE**  
Claimant

**APPEAL NO. 14A-UI-10852-BT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**SAC & FOX TRIBE  
MESKWAKI BINGO CASINO & HOTEL**  
Employer

**OC: 09/21/14  
Claimant: Respondent (5)**

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Iowa Code § 96.5-1 - Voluntary Quit  
Iowa Code § 96.5(2)(a) - Discharge for Misconduct

**STATEMENT OF THE CASE:**

Meskwaki Bingo Casino & Hotel (employer) appealed an unemployment insurance decision dated October 7, 2014, (reference 01), which held that Jeanette Bear Moore (claimant) was eligible for unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on November 6, 2014. The claimant did not comply with the hearing notice instructions and did not call in to provide a telephone number at which she could be contacted, and therefore, did not participate. The employer participated through Lucie Roberts, Human Resources Director and Dan Stromer, General Manager.

**ISSUE:**

The issue is whether the claimant was discharged for misconduct sufficient to warrant a denial of unemployment benefits.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant worked as a full-time hotel manager from July 1, 2013, through September 8, 2014, when she resigned in lieu of discharge. Her performance was inadequate and there were repeated deficiencies. The employer issued the claimant a written warning on June 25, 2014, and two verbal warnings prior to that. She failed to adequately staff the hotel, she did not return phone calls to customers or co-workers, she did not manage the front desk properly, and she was inconsistent in administering policies and procedures. The employer concluded the claimant was not capable of performing her job duties and gave her the option to quit instead of being discharged.

**REASONING AND CONCLUSIONS OF LAW:**

The issue to be determined is whether the reasons for the claimant's separation from employment qualify her to receive unemployment insurance benefits. The claimant is not qualified to receive unemployment insurance benefits if she voluntarily quit without good cause attributable to the employer. Iowa Code § 96.5-1.

The claimant quit on September 8, 2014 when she was given the choice to quit or be discharged. When an employee quits in lieu of discharge, it is an involuntary quit since the employee really had no choice in the matter. However, the rule specifically treats this type of a separation as a voluntary quit with good cause attributable to the employer. 871 IAC 24.26(21). Consequently, the claimant's separation from employment is not disqualifying.

**DECISION:**

The unemployment insurance decision dated October 7, 2014, (reference 01), is modified with no effect. The claimant's separation was with good cause attributable to the employer and she qualifies to receive unemployment insurance benefits, provided she is otherwise eligible.

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Susan D. Ackerman  
Administrative Law Judge

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Decision Dated and Mailed

sda/pjs