

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

ANGELA S MALANEY Claimant ACKERMAN INVESTMENT CO Employer	<div>68-0157 (9-06) - 3091078 - EI</div> <div>APPEAL NO: 06A-UI-09159-DWT ADMINISTRATIVE LAW JUDGE DECISION</div> <div>OC: 08/13/06 R: 02 Claimant: Appellant (1)</div>
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Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Angela S. Malaney (claimant) appealed a representative's September 5, 2006 decision (reference 01) that concluded she was not qualified to receive unemployment insurance benefits, and the account of Ackerman Investment Company (employer) would not be charged because the claimant voluntarily quit her employment for reasons that do not qualify her to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on September 26, 2006. The claimant participated in the hearing. Brian Bocken, the general manager, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the claimant voluntarily quit her employment for reasons that qualify her to receive unemployment insurance benefits?

FINDINGS OF FACT:

The claimant started working for the employer on July 12, 2004. The claimant worked as a full-time hotel manager in Des Moines. In July 2006, personal issues resulted in the claimant experiencing medical problems. As result of health-related issues, the claimant was absent from work for two weeks.

When the claimant returned to work, some employees told the claimant that Bocken was not happy she had been gone for two weeks and wanted to discharge her. The claimant did not talk to Bocken about these rumors. The rumors were not true.

During the week of State Fair the hotel is extremely busy and managers are under a lot of stress. The State Fair was in progress August 14. When the claimant went home the evening of August 14, she had a pager with her. If the employer needed the claimant to return to work during the evening, someone could contact the claimant and she would return to the hotel. The claimant did not receive any calls to return to work the evening of August 14.

The claimant reported to work as scheduled on August 15. While she was talking to a co-worker, she indicated she had gotten a good night sleep. Bocken happened to walk by and heard this remark. He made a comment he had only gotten four hours of sleep the night before and that he had had it. Bocken pointed his finger at the claimant and indicated she would have to take care of problems that night. The claimant thought Bocken was angry at her for not coming back to work the night before. The claimant did not say anything to Bocken, but she was upset by his remark and actions. The claimant had not previously experienced any problems of a similar nature with Bocken.

The claimant had to deposit money at the employer's bank. After she deposited the money, she decided to quit. The claimant did not return to work or contact the employer. The employer tried to contact the claimant, but was not successful. The employer had no idea why the claimant did not return to work.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quits employment without good cause attributable to the employer. Iowa Code § 96.5-1. The claimant voluntarily quit her employment on August 15, 2006. When a claimant quits, she has the burden to establish she quit with good cause attributable to the employer. Iowa Code § 96.6-2.

The law presumes a claimant voluntarily quits employment without good cause when she leaves employment after being reprimanded. 871 IAC 24.25(28). The law also presumes a claimant quits employment with good cause if she leaves because of intolerable working conditions. 871 IAC 24.26(4).

The facts establish the claimant quit in part because she incorrectly assumed Bocken was upset with her because she had missed two weeks of work for medical reasons and wanted to discharge her. The facts do not establish that Bocken had any intention of discharging the claimant. The morning of August 15, Bocken may have been a bit "testy" due a lack of sleep. Bocken even may have raised his voice when he indicated the claimant would pull the late night duty on August 15. Bocken's comments and actions the morning of August 15 do not constitute intolerable working conditions.

The morning of August 15, the claimant may have been overly sensitive because the hotel was very busy. As a result of jumping to inaccurate conclusions by relying on hearsay information, the claimant decided to quit instead of giving the employer the opportunity to discharge her. The claimant quit for reasons that do not qualify her to receive unemployment insurance benefits.

DECISION:

The representative's September 5, 2006 decision (reference 01) is affirmed. The employer discharged the claimant for compelling personal reasons that do not qualify her to receive unemployment insurance benefits. The claimant is disqualified from receiving unemployment insurance benefits as of August 13, 2006. This disqualification continues until she has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The employer's account will not be charged.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/cs