

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CRYSTAL SLACH
Claimant

APPEAL NO: 13A-UI-08017-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**MT VERNON HOTEL LLC
SLEEP INN & SUITES**
Employer

**OC: 06/16/13
Claimant: Appellant (1)**

Iowa Code § 96.5-1 - Voluntary Quit
871 IAC 24.25(4) - Voluntary Quit Without Good Cause

STATEMENT OF THE CASE:

Crystal Slach (claimant) appealed an unemployment insurance decision dated July 2, 2013, reference 01, which held that she was not eligible for unemployment insurance benefits because she voluntarily quit her employment with Sleep Inn & Suites (employer) without good cause attributable to the employer. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on August 26, 2013. The claimant participated in the hearing with Sally Adams. The employer participated through Terri Alter, Jason Lucky, Sherri Hurt and Carrie Bisbee.

ISSUE:

The issue is whether the claimant's voluntary separation from employment qualifies her to receive unemployment insurance 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 was employed as a housekeeper/head housekeeper from September 1, 2012 through June 10, 2013 when she voluntarily quit. She had been warned about attendance on June 1, 2011 and received a final warning after she was a no-call/no-show on May 21, 2013. The claimant was warned that any further unexcused absences would result in her termination. She was a no-call/no-show for three consecutive shifts on June 7, 8, and 9, 2013 in violation of company policy. The claimant brought in her uniform on June 10, 2013.

REASONING AND CONCLUSIONS OF LAW:

The issue 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.

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980) and *Peck v. Employment Appeal Bd.*, 492 N.W.2d 438 (Iowa Ct. App. 1992). The claimant demonstrated her intent to quit and acted to carry it out by failing to call or report to work for three consecutive days ending June 9, 2013. The law presumes it is a quit without good cause attributable to the employer when an employee is absent for three days without notification in violation of company rule. 871 IAC 24.25(4).

The claimant testified she believed she was fired when she missed work that first day but admitted no one told her she was fired. Where an individual mistakenly believes that she is discharged and discontinues coming to work (but was never told she was discharged), the separation is a voluntary quit without cause attributable to the employer. *LaGrange v. Iowa Department of Job Service*, (Unpublished Iowa Appeals 1984).

It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify her. Iowa Code § 96.6-2. She has not met that burden and her separation was not attributable to the employer. Benefits are denied.

DECISION:

The unemployment insurance decision dated July 2, 2013, reference 01, is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until she has worked in and has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/pjs