

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ANGELA COX
Claimant

APPEAL NO: 11A-UI-16595-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

DESIGNER SUITES INC
Employer

OC: 11-27-11
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the December 21, 2011, reference 01, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on January 30, 2012. The claimant participated in the hearing. Shirley Downs, Hotel Manager and Sally Strobusch, Owner, participated in the hearing on behalf of the employer. Employer's Exhibit One was admitted into evidence.

ISSUE:

The issue is whether the claimant voluntarily left her employment.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a part-time housekeeper for Designer Suites from September 24, 2011 to November 24, 2011. The employer puts out an original monthly schedule at or shortly before the beginning of the month and then often replaces it with another schedule about one week into the month. Employees are allowed to switch with each other and do so with regularity. Usually every housekeeper is scheduled to work on Fridays because the employer's contractor clientele leave for the weekend and there is a mass checkout. The claimant was scheduled to work November 22, 23 and 24, 2011. She was usually off on Wednesdays but because November 23, 2011, was the day before Thanksgiving it was treated like a Friday and all housekeepers were required to work. She was also scheduled to work Thanksgiving Day because she appreciated the time and one-half pay on holidays. The claimant was a no-call/no-show November 22, 23 and 24, 2011. The employer attempted to call her approximately six times per day to find out where she was but the claimant did not answer the phone and her phone would not allow the employer to leave her messages. The claimant did call the employer after her shift November 24, 2011, and stated she did not have gas to get to work and her phone was not working because her boyfriend had not added any additional minutes to it. The employer's written policy requires that an employee, or her surrogate, contact the employer and notify it of her absence so the employer can find a replacement to work for her. Employees are also notified of the policy during orientation. When the claimant called the

afternoon of her November 24, 2011, shift, the employer notified her it considered her to have voluntarily quit her job due to the three no-call/no-show absences.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left her employment without good cause attributable to the employer.

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.

871 IAC 24.25(4) provides:

Voluntary quit without good cause. 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 from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(4) The claimant was absent for three days without giving notice to employer in violation of company rule.

The employer credibly testified that it published a new November 2011 schedule early in the month and the claimant was scheduled to work November 22, 23 and 24, 2011, but failed to call or report for work on those three days. When she called after her shift November 24, 2011, she indicated she did not have gas money or any minutes on her phone to come to work or call earlier to report her absences. While the claimant denies that she voluntarily quit her job, her failure to call or show up for work as scheduled constitutes a voluntary leaving under Iowa law. Inasmuch as the claimant failed to report for work or notify the employer for three consecutive work days in violation of the employer's policy, she is considered to have voluntarily left her employment without good cause attributable to the employer. Therefore, benefits must be denied.

DECISION:

The December 21, 2011, reference 01, decision is affirmed. The claimant voluntarily left her employment without good cause attributable to the employer. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/css