

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

CHASTITY M ZEITLER  
BLDG 2 APT 3-D  
2800 W 4<sup>TH</sup> ST  
SIOUX CITY IA 51103

5326 INC – IHOP  
6300 N 7<sup>TH</sup> ST  
LINCOLN NE 68521

Appeal Number: 04A-UI-11406-CT  
OC: 09/19/04 R: 01  
Claimant: Respondent (2)

**This Decision Shall Become Final**, unless within fifteen (15) days from the date below, you or any interested party 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, 4<sup>th</sup> 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.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.5(1) – Voluntary Quit  
Section 96.3(7) – Recovery of Overpayments

STATEMENT OF THE CASE:

International House of Pancakes (IHOP) filed an appeal from a representative's decision dated October 14, 2004, reference 01, which held that no disqualification would be imposed regarding Chastity Zeitler's separation from employment. After due notice was issued, a hearing was held by telephone on November 16, 2004. The employer participated by Mike Roberts, Director of Operations. Ms. Zeitler did not respond to the notice of hearing.

FINDINGS OF FACT:

Having heard the testimony of the witness and having reviewed all the evidence in the record, the administrative law judge finds: Ms. Zeitler was employed by IHOP from August 27, 2003 until August 3, 2004 as a part-time server working approximately 30 hours per week. Her mother gave a note to the employer indicating that Ms. Zeitler needed to be off work for a period of time in order to get her home in order so that she could retain custody of her children. The note did not indicate how long she would be gone and the mother did not specify. Ms. Zeitler did not personally contact the employer regarding her need to be off work. She did not thereafter contact the employer regarding a return to work. Continued work was available for her.

Ms. Zeitler has received \$127.00 in job insurance benefits since filing her claim effective September 19, 2004.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Ms. Zeitler was separated from employment for any disqualifying reason. She abandoned her job when she stopped reporting for available work. Although a note was left indicating she needed to have time off, Ms. Zeitler did not at any point thereafter return for work or contact the employer. Therefore, her separation is considered a voluntary quit. An individual who voluntarily quits employment is disqualified from receiving job insurance benefits unless the quit was for good cause attributable to the employer. Iowa Code section 96.5(1). Ms. Zeitler had the burden of proving that her quit was for good cause attributable to the employer. Iowa Code section 96.6(2).

It appears that Ms. Zeitler left the employment in order to take care of matters relating to the custody of her children. An individual who leaves employment because of serious family needs or responsibilities is presumed to have quit for no good cause attributable to the employer. See 871 IAC 24.25(23). Inasmuch as the record does not identify any other reason for the separation, it is concluded that Ms. Zeitler did not have good cause attributable to the employer for quitting. Accordingly, benefits are denied. Ms. Zeitler has received benefits since filing her claim. Based on the decision herein, the benefits received now constitute an overpayment and must be repaid. Iowa Code section 96.3(7).

DECISION:

The representative's decision dated October 14, 2004, reference 01, is hereby reversed. Ms. Zeitler voluntarily quit her employment with IHOP for no 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 job insurance benefit amount, provided she satisfies all other conditions of eligibility. Ms. Zeitler has been overpaid \$127.00 in job insurance benefits.

cfc/b