

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

**TERRY L SCHWARTZ**  
Claimant

**FRONTIER DUBUQUE HOTELS LLC**  
Employer

**APPEAL 15A-UI-00308-JCT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 11/30/14  
Claimant: Appellant (1)**

Iowa Code § 96.5(1) – Voluntary Quitting  
Iowa Code § 96.5(2)a – Discharge for Misconduct

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the December 31, 2014, (reference 01) unemployment insurance decision that denied benefits based upon the claimant's separation. The parties were properly notified about the hearing. A telephone hearing was held on February 3, 2015. The claimant participated. The employer participated through Stacey Ferry and Tina Gau. Cheryl Muntz was an observer. Claimant Exhibit One was admitted. Employer Exhibits One and Two were admitted.

**ISSUE:**

Did claimant voluntarily leave the employment with good cause attributable to employer or did employer discharge claimant for reasons related to job misconduct sufficient to warrant a denial of benefits?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed full-time as a housekeeper and was separated from employment on December 3, 2014.

The claimant had a meeting with Tina Gau to discuss her annual review, which was overall positive and complimentary (Claimant Exhibit One). The discussion took a negative turn when the claimant and Ms. Gau began discussing the claimant's temper and some recent interactions with her manager, Tanya. During this discussion, the claimant began to cry and became upset. Ms. Gau asked Stacey Ferry, general manager, to join them to help facilitate the discussion. The claimant ended the meeting when she got up and left the premises. There was contradictory evidence about if profanities were used and doors were slammed, but the testimony was undisputed that the claimant's actions ended the discussion. Because the claimant was upset and being disruptive, she was escorted out of the building by Ms. Ferry. The

claimant called the employer shortly after the meeting asking about 401k information, believing she had been fired. She sent her uniforms in with another co-worker and did not return to work after December 3. The employer would have likely disciplined the claimant for her outburst, but would have allowed her to continue working, and denied discharging her.

### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes claimant was not discharged but voluntarily quit the employment without good cause attributable to employer.

Iowa Code § 96.5-2-a provides:

An individual shall be disqualified for benefits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:

a. The individual shall be disqualified for benefits until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

Iowa Code § 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.

A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980). The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2) (amended 1998). Generally, when an individual mistakenly believes they are discharged from employment, but was not told so by the employer, and they discontinue reporting for work, the separation is considered a quit without good cause attributable to the employer. *LaGrange v. Iowa Dep't of Job Serv.*, (No. 4-209/83-1081, Iowa Ct. App. filed June 26, 1984). In this case, the claimant got upset during her annual review when her temperament was being discussed. Employees are expected to conduct themselves in a professional manner, and are sometimes subjected to constructive feedback in the course of employment. By raising her voice and getting upset, the claimant essentially substantiated the concerns the employer was trying to discuss with her at the meeting.

The claimant's actions of leaving the meeting, and not returning to the premises initiated the separation. No evidence was provided that the employer told the claimant she was fired or going to be fired, or to return her uniforms. Since she was not told she was fired, and did not follow up with management or human resources, the claimant's assumption of having been fired was erroneous, and her failure to continue reporting to work was an abandonment of the job. Benefits are denied.

**DECISION:**

The December 31, 2014 (reference 01) decision is affirmed. The claimant was not discharged but voluntarily quit the employment without good cause attributable to 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.

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Jennifer L. Coe  
Administrative Law Judge

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Decision Dated and Mailed

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