

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JEROME JACKSON**  
Claimant

**APPEAL NO. 09A-UI-09952-HT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**MARRIOTT HOTEL SERVICES INC**  
Employer

**Original Claim: 05/24/09  
Claimant: Respondent (2-R)**

Section 96.5(1) – Quit

**STATEMENT OF THE CASE:**

The employer, Marriott, filed an appeal from a decision dated June 30, 2009, reference 02. The decision allowed benefits to the claimant, Jerome Jackson. After due notice was issued, a hearing was held by telephone conference call on July 28, 2009. The claimant did not provide a telephone number where he could be contacted and did not participate. The employer participated by Assistant General Manager Grey Mirabito and Human Resources Manager Jody Shannon.

**ISSUE:**

The issue is whether the claimant quit work with good cause attributable to the employer.

**FINDINGS OF FACT:**

Jerome Jackson was employed by Marriott from March 4, 2008 until January 7, 2009 as a full-time housekeeping aide. On January 7, 2009, he was scheduled to work from 8:00 a.m. until 4:30 p.m.

Around 10:00 a.m., Assistant General Manager Greg Mirabito saw the claimant putting on his jacket and exiting the building. He assumed Mr. Jackson was going outside to smoke during his 15-minute break. But later when the employer tried to locate him, the claimant could not be found. He was nowhere in the building and his time card showed he had clocked out around 10:00 a.m. Mr. Jackson had not requested permission from any supervisor to leave, never notified anyone he had left or the reason why, and never returned to work or contacted the employer in any way.

Jerome Jackson has received unemployment benefits since filing a claim with an effective date of May 24, 2009.

## REASONING AND CONCLUSIONS OF LAW:

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.

The claimant's employment came to an end when he left the workplace without permission and never returned. Continuing work was available to him, but he declined to notify the employer of the situation and did not request to resume his job. The record establishes the claimant quit without good cause attributable to the employer and he is disqualified.

Iowa Code section 96.3-7, as amended in 2008, provides:

### 7. Recovery of overpayment of benefits.

a. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

b. (1) If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5. However, provided the benefits were not received as the result of fraud or willful misrepresentation by the individual, benefits shall not be recovered from an individual if the employer did not participate in the initial determination to award benefits pursuant to section 96.6, subsection 2, and an overpayment occurred because of a subsequent reversal on appeal regarding the issue of the individual's separation from employment. The employer shall not be charged with the benefits.

(2) An accounting firm, agent, unemployment insurance accounting firm, or other entity that represents an employer in unemployment claim matters and demonstrates a continuous pattern of failing to participate in the initial determinations to award benefits, as determined and defined by rule by the department, shall be denied permission by the department to represent any employers in unemployment insurance matters. This subparagraph does not apply to attorneys or counselors admitted to practice in the courts of this state pursuant to section 602.10101.

The claimant has received unemployment benefits to which he is not entitled. The question of whether the claimant must repay these benefits is remanded to the UIS division.

**DECISION:**

The representative's decision of June 30, 2009, reference 02, is reversed. Jerome Jackson is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount, provided he is otherwise eligible. The issue of whether the claimant must repay the unemployment benefits is remanded to UIS division for determination.

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Bonny G. Hendricksmeier  
Administrative Law Judge

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Decision Dated and Mailed

bgh/kjw