

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JONATHAN J SOULE**  
Claimant

**APPEAL NO. 07A-UI-09500-NT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**RED ROBIN INTERNATIONAL INC**  
Employer

**OC: 09/02/07 R: 04  
Claimant: Respondent (2)**

Section 96.5-1 – Voluntary Quit  
Section 96.3-7 – Recovery of Overpayment of Benefits

**STATEMENT OF THE CASE:**

The employer filed an appeal from a decision a representative dated September 26, 2007, reference 01, which held the claimant eligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on October 23, 2007. Although duly notified, the claimant did not participate. The employer participated through Pete Stonskas, general manager.

**ISSUE:**

The issues in this matter are the claimant quit for good cause attributable to the employer and whether the claimant is overpaid unemployment insurance benefits.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and having considered all the evidence in the record, finds: The claimant worked for this employer from October 24, 2005, until August 28, 2007, when he voluntarily left work by failing to report for scheduled for three or more consecutive shifts without providing notification to the employer. The claimant held the position of part-time bus person/dishwasher and was paid by the hour.

Mr. Soules discontinued reporting for scheduled work after August 28, 2007, after the claimant failed to report or to notify the employer of his impending absences for three consecutive work shifts. The employer reasonably concluded that the claimant had voluntarily relinquished his position with the company. The claimant has received not benefits since filing a claim effective September 2, 2007.

**REASONING AND CONCLUSIONS OF LAW:**

The administrative law judge concludes, based upon the evidence in the record, that the claimant chose to voluntarily quit his employment. Prior to leaving work, the claimant indicated no areas of dissatisfaction and did not request any change in his employment. After the claimant failed to report for scheduled work for three consecutive days and provided no

notification to the employer, the employer reasonably concluded that Mr. Soules had chosen to leave employment.

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.

For the reasons stated herein, the administrative law judge finds that the claimant left work under disqualifying conditions. Unemployment insurance benefits are withheld.

**DECISION:**

The representative's decision dated September 26, 2007, reference 01, is hereby reversed. The claimant left employment for reasons that were not attributable to the employer. Unemployment insurance benefits are withheld until the claimant has worked in and been paid wages for insured work equal to ten times the claimant's weekly benefit amount, provided the claimant meets all other eligibility requirements of Iowa law.

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Terence P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

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