

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JAMES L JONES**

Claimant

**APPEAL NO. 12A-UI-07706-AT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**KINSETH HOTEL CORPORATION**

Employer

**OC: 05/20/12**

**Claimant: Respondent (2-R)**

Section 96.5-1 – Voluntary Quit

**STATEMENT OF THE CASE:**

Kinseth Hotel Corporation filed a timely appeal from an unemployment insurance decision dated June 18, 2012, reference 01, that allowed benefits to James L. Jones. After due notice was issued, a telephone hearing was held July 19, 2012, with General Manager Ronald Bernard testifying for the employer, which was represented by Stephanie Van Dellen of Employers Unity. Employer Exhibit 1 was admitted into evidence. Mr. Jones did not provide a telephone number at which he could be contacted. The administrative law judge takes official notice of Agency benefit payment records.

**ISSUE:**

Did the claimant leave work with good cause attributable to the employer?

**FINDINGS OF FACT:**

James L. Jones was a part-time van driver for Kinseth Hotel Corporation from July 30, 2011, until May 25, 2012. Kinseth Hotel Corporation was his only base period employer. Mr. Jones was absent on May 18, 2012, but contacted the employer. He was then absent without contact for his next three shifts, May 19 and 20 and May 25, 26, and 27, 2012. The employer treated the separation as a voluntary quit. Mr. Jones has received unemployment insurance benefits since filing a claim effective May 20, 2012.

**REASONING AND CONCLUSIONS OF LAW:**

The employment security law disqualifies an individual for benefits if the individual voluntarily leaves employment without good cause attributable to the employer. Three days of absence without contact in violation a company rule is considered to be a quit without good cause attributable to the employer. The evidence in this record establishes that Mr. Jones left employment under such circumstances. Benefits are withheld.

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 question of whether Mr. Jones must repay the benefits he has received is remanded to the Unemployment Insurance Services Division.

**DECISION:**

The unemployment insurance decision dated June 18, 2012, reference 01, is reversed. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. The question of repayment of benefits is remanded.

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Dan Anderson  
Administrative Law Judge

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Decision Dated and Mailed

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