

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ANTIONETTE R GLASPER
Claimant

APPEAL NO. 07O-UI-06505-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CATFISH BEND CASINOS II LLC
CATFISH BEND CASINO
Employer

OC: 04/01/07 R: 04
Claimant: Appellant (1)

Iowa Code Section 96.5(1) – Voluntary Quit
Iowa Code Section 96.3(7) – Recovery of Overpayment

STATEMENT OF THE CASE:

Antionette Glasper filed a timely appeal from the April 19, 2007, reference 02, decision that denied benefits. This matter comes before the administrative law judge based on a remand from the Employment Appeal Board. After due notice was issued, a hearing was held on July 18, 2007. Ms. Glasper did not respond to the hearing notice instructions to provide a telephone number for the hearing and did not participate. Steve Morley, Human Resources Director, represented the employer and presented additional testimony through Gary Neff, Housekeeping Manager and Jeff Krieger, Overnight Housekeeping Supervisor. The administrative law judge took official notice of the Agency's record of benefits disbursed to the claimant.

ISSUES:

Whether the claimant voluntary quit the employment for good cause attributable to the employer.

Whether the claimant has been overpaid benefits.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Antionette Glasper was employed by Catfish Bend Casino as a full-time housekeeper from February 12, 2007 until March 13, 2007, when she quit the employment. On March 13, overnight housekeeping supervisor Jeff Krieger located Ms. Glasper sleeping in an employee break room. At the time Mr. Krieger located Ms. Glasper sleeping in the break room, Ms. Glasper had exceeded her 30-minute lunch break by 20 minutes. A short while later, employee Matt Garza advised Mr. Krieger that Ms. Glasper had quit the employment. Mr. Krieger located Ms. Glasper and Ms. Glasper told Mr. Krieger that she was quitting the employment. Ms. Glasper then left the workplace and did not return. The employer continued to have work available for Ms. Glasper at the time she quit.

Ms. Glasper established a claim for unemployment insurance benefits that was effective April 1, 2007. Ms. Glasper received benefits totaling \$1,110.60.

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.

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 698, 612 (Iowa 1980) and Peck v. EAB, 492 N.W.2d 438 (Iowa App. 1992). 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. See 871 IAC 24.25.

Because Ms. Glasper did not participate in the hearing, the evidence in the record is limited to the testimony provided by the employer. The evidence in the record establishes that Ms. Glasper quit after being reprimanded. A person who quits after being reprimanded is presumed to have voluntarily quit without good cause attributable to the employer. See 871 IAC 24.25(28).

Based on the evidence in the record and application of the appropriate law, the administrative law judge concludes that Ms. Glasper voluntarily quit the employment without good cause attributable to the employer. Accordingly, Ms. Glasper is disqualified for benefits until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. The employer's account shall not be charged for benefits paid to Ms. Glasper.

Iowa Code section 96.3-7 provides:

7. Recovery of overpayment of benefits. 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.

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.

Because Ms. Glasper received benefits for which she has been deemed ineligible, those benefits constitute an overpayment that Ms. Glasper must repay to Iowa Workforce Development. Ms. Glasper is overpaid \$1,110.60.

DECISION:

The Agency representatives April 19, 2007, reference 02, decision is affirmed. The claimant voluntarily quit the employment without good cause attributable to the employer. The claimant is disqualified for benefits until she has worked in a been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. The employer's account shall not be charged. The claimant is overpaid \$1,110.60.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

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