

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TERESA K GLASS
Claimant

APPEAL NO. 12A-UI-01092-VST

**ADMINISTRATIVE LAW JUDGE
DECISION**

**PRAIRIE MEADOWS RACETRACK &
CASINO**
Employer

**OC: 12/18/11
Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

The claimant filed an appeal from a decision of a representative dated January 23, 2012, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on February 23, 2012. Claimant participated. The employer participated by Tracy Casey, human resources generalist. The record consists of the testimony of Teresa Glass and the testimony of Tracy Casey.

ISSUE:

Whether the claimant voluntarily left for good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witnesses and having considered all of the evidence in the record, makes the following findings of fact:

The employer is a gaming facility and hotel located in Altoona, Iowa. The claimant was hired on May 12, 2008, as a full-time concessionaire. The claimant's last day of work was December 17, 2011. She was sent home that day because she was ill. The claimant was also sick the next day and unable to come to work.

On Monday, December 19, 2011, the claimant brought her uniforms in to work and gave them to Sherry, the head of food and beverage. The claimant told Sherry that she was moving back to Oklahoma with her parents. She asked that her direct deposit stop and that her paycheck be sent to a new address.

The employer has a point system for attendance. The claimant had been given a written warning for attendance on December 17, 2011, and was told that if she got another half point, she would be on probation. The claimant thought she had pointed out when she missed work on December 18, 2011. Nine points leads to termination. This belief on her part also played a role in her decision to quit. The claimant would not have been terminated for attendance because she had not yet been on attendance probation. She also might have been excused if

she brought in a doctor's slip that said she could not work around food and beverages due to her illness. No one terminated the claimant.

REASONING AND CONCLUSIONS OF LAW:

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 quit is a separation initiated by the employee. 871 IAC 24.1(113)(b). 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.

The evidence in this case established that it was the claimant who initiated the separation of employment. The claimant was not terminated. While the claimant was in progressive discipline because of her attendance, she would not have been terminated for her leaving early on December 17, 2011, and being absent on December 18, 2011. She had not reached the final step of progressive discipline. In addition, the nature of her absence might also have prevented her termination. The claimant did not make any inquiries of human resource personnel on where she stood with attendance. She assumed she had pointed out. She also said she was moving to Oklahoma with her parents. Whatever reason or reasons there were for the claimant's quitting, none of them are good cause attributable to the employer. The claimant is not eligible for benefits. Benefits are denied.

DECISION:

The decision of the representative dated January 23, 2012, reference 01, is affirmed. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.

Vicki L. Seeck
Administrative Law Judge

Decision Dated and Mailed

vls/pjs