

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

WYNETTE GUIDER
Claimant

APPEAL NO: 19A-UI-02538-TN-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

CLAY COUNTY LODGING LLC
Employer

OC: 02/24/19
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quit/Three Days Absence without Notice

STATEMENT OF THE CASE:

Wynette Guider, the claimant filed a timely appeal from a representative's unemployment insurance decision dated March 20, 2019, (reference 01) which denied unemployment insurance benefits, finding that the claimant voluntarily quit work by failing to report for work for three days in a row and not notifying the employer of the reason. After due notice was provided, a telephone hearing was held on April 10, 2019. Claimant participated. Participating as witnesses for the employer were Ms. Venesa Logan, Head Househeader and Ms. Nicole Haburn, General Manager. Employer's Exhibits 1 through 4 and Department Exhibit D-1 were admitted into the hearing record.

ISSUE:

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

FINDINGS OF FACT:

Having considered all of the evidence in the record, the administrative law judge finds: Wynette Guider was employed by Clay County Lodging, LLC dba Holiday Inn Express and Suites from July 20, 2015 until November 23, 2018 when she is considered to have voluntarily quit employment by failing to report for work for three consecutive work days and not notifying the employer of the reason in violation of company policy. Ms. Guider was employed as a part-time housekeeper and was paid by the hour. Her immediate supervisor was Venesa Logan.

Ms. Guider last report for scheduled work on November 13, 2018. Ms. Guider was authorized to be away from work on vacation time until November 20, 2018 when she was scheduled to report back to work. Although Ms. Guider was aware that she was scheduled to report back to work on November 20, 2018, she did not report or notify the employer of the reason for her absence on that day. Ms. Guider did not report for scheduled work or notify the employer the reason on November 21, 2018, or November 23, 2018, the claimant's next working day.

Under established company policy, employees who fail to report for scheduled work and do not provide notification to the employer of the reason, are considered to have voluntarily quit their employment after three consecutive days of failure to report without providing notification.

When Ms. Guider failed to report back for scheduled work and the employer had heard nothing from Ms. Guider, the employer made repeated attempts to contact Ms. Guider by telephone to ascertain the reason that she was not reporting back for work as scheduled. The employer received no response from Ms. Guider until the evening of November 24, 2018 when Ms. Guider sent the executive housekeeper a text that she had returned. The claimant was told that she was terminated.

Ms. Guider made a number of requests to meet with Ms. Logan to explain why she had not reported back to work or provide notification to the employer. Although the executive housekeeper was willing to meet with Ms. Guider, Ms. Guider was unable to meet on the days that had been agreed upon.

It is the claimant's position that she was suffering from depression and not thinking clearly and therefore failed to report back to work or notify the employer of her impending absences. Because Ms. Logan had stated that she had begun the paperwork for separating Ms. Guider from employment, Ms. Guider believed that meeting with the executive housekeeper to explain the reason for her absence and lack of notification would be to no avail.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left employment without good cause attributable to the employer.

Iowa Code § 96.5-1 provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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.

Iowa Admin. Code r. 871-24.25(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.

An employer is entitled to expect employees to report for work as scheduled or to be notified when and why the employee is unable to report for work. Inasmuch as the claimant failed to report for work or notify the employer for three consecutive work days in violation of the

employer's policy and the application of its no-call policy, the claimant is considered to have voluntarily left employment without good cause attributable to the employer. Benefits are withheld.

DECISION:

The representative's unemployment insurance decision dated March 20, 2019, reference 01 is affirmed. Claimant voluntarily left employment without good cause attributable to the employer. Benefits are withheld until such time as Wynette Guider has worked in and been paid wages for insured work equal to ten times her weekly benefit amount and is otherwise eligible.

Terry P. Nice
Administrative Law Judge

Decision Dated and Mailed

tn/scn