

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

HOLLIE E MATHEWS
PO BOX 75
BUSSEY IA 50044

HARDEES FOOD SYSTEMS INC
c/o TALX UC EXPRESS
PO BOX 283
ST LOUIS MO 63166-0283

Appeal Number: 04A-UI-11783-AT
OC: 10-03-04 R: 02
Claimant: Respondent (2)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

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

STATEMENT OF THE CASE:

Hardees Food Systems, Inc. filed a timely appeal from an unemployment insurance decision dated October 19, 2004, reference 01, which allowed benefits to Hollie E. Mathews. After due notice was issued, a telephone hearing was held November 22, 2004 with General Manager Connie VanKlootwyk participating for the employer. Ms. Mathews did not provide a telephone number at which she could be contacted. The administrative law judge takes official notice of Agency benefit payment records.

FINDINGS OF FACT:

Having heard the testimony of the witness and having examined all of the evidence in the record, the administrative law judge finds: Hollie E. Mathews was employed as a cashier by Hardees Food Systems, Inc. from February 3, 2004 until June 11, 2004. Although scheduled to work on June 8, June 9 and June 11, Ms. Mathews did not report to work or contact the employer. Pursuant to company policy, General Manager Connie VanKlootwyk processed the separation as a voluntary quit by job abandonment. Ms. Mathews has received unemployment insurance benefits in the gross amount of \$74.00 since filing an additional claim effective October 24, 2004.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the separation was an event which disqualifies Ms. Mathews for benefits. The administrative law judge concludes that it was.

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.

An individual who is absent on three consecutive days without contacting the employer is presumed to have left work without good cause attributable to the employer. Since it appears that Ms. Mathews became unemployed under these circumstances, benefits must be withheld.

Ms. Mathews has received unemployment insurance benefits since this separation. Absent evidence of requalification by earning ten times her weekly benefit amount in wages for subsequent work, the administrative law judge concludes that the benefits must be repaid. See Iowa Code section 96.3-7.

DECISION:

The unemployment insurance decision dated October 19, 2004, 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 her weekly benefit amount, provided she is otherwise eligible. She has been overpaid by \$74.00.

tjc/tjc