

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**LINDA D BORSHELM**  
Claimant

**APPEAL NO: 10A-UI-10776-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**AMERICAN BLUE RIBBON HOLDINGS LLC**  
Employer

**OC: 06/20/10**  
**Claimant: Respondent (2/R)**

Section 96.5-1 – Voluntary Quit

**STATEMENT OF THE CASE:**

The employer appealed a representative's July 22, 2010 decision (reference 01) that held the claimant qualified to receive benefits and the employer's account subject to charge because the claimant's employment separation was for nondisqualifying reasons. A telephone hearing was held on September 16, 2010. The claimant did not respond to the hearing notice or participate in the hearing. Susan Schneider, attorney at law, represented the employer. Mani Vi, the general manager, testified on the employer's behalf. During the hearing, Employer Exhibits One through Three were offered and admitted as evidence. Based on the evidence, the arguments of the employer and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

Did the claimant voluntarily quit her employment for reasons that qualify her to receive benefits, or did the employer discharge her for work-connected misconduct?

**FINDINGS OF FACT:**

The claimant started working for the employer on July 5, 2006. She worked as a part-time server. The last day the claimant worked was March 30, 2009. The claimant asked the employer not to schedule her after March 30.

At some point the claimant gave the employer a number of doctor's statements. A July 31, 2009 doctor's statement stated the claimant needed to be off work for four weeks. (Employer Exhibit One.)

The employer contacted the claimant on September 10, 2009, about putting the claimant back on the schedule. Although the employer understood the claimant had been released to work, the claimant indicated she was not ready to return to work. The claimant did not complete any paperwork for any kind of leave of absence. (Employer Exhibit Three.) The employer then removed the claimant as an employee from the employer's payroll records. The claimant has not contacted the employer again or asked to return to work.

The claimant established a claim for benefits during the week of June 20, 2010. The claimant has filed for and received benefits since June 20, 2010.

**REASONING AND CONCLUSIONS OF LAW:**

A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quits employment without good cause attributable to the employer, or an employer discharges her for reasons constituting work-connected misconduct. Iowa Code sections 96.5-1, 2-a. The claimant asked the employer not to schedule her to work since early April 2009, she did not complete any paperwork for leave of absence and the evidence does not indicate that she was unable to work as of September 10. Based on the above facts, the evidence establishes that the claimant voluntarily quit her employment on September 10, 2009.

Since the claimant did not participate in the hearing, the evidence does not establish why she did not want to return to work in September 2009. The claimant may have had compelling personal reasons for not returning to work or quitting, but the facts do not establish that she left employment for reasons that qualify her to receive benefits. Therefore, as of September 10, 2009, the claimant is not qualified to receive benefits.

Since the claimant has received benefits since June 20, 2010, the issue of overpayment or whether she is eligible for a waiver of any overpayment will be remanded to the Claims Section to determine.

**DECISION:**

The representative's July 22, 2010 decision (reference 01) is reversed. The claimant voluntarily quit her employment on September 10, 2009, for reasons that do not qualify her to receive benefits. The claimant is disqualified from receiving unemployment insurance benefits as of September 10, 2009. This disqualification continues until she has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The employer's account will not be charged. The issue of overpayment or whether the claimant is eligible for a waiver of any overpayment is **Remanded** to the Claims Section to determine.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/pjs