

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

JASMINA KLICKO
204 LIONS DR
NORTH LIBERTY IA 52317

HEARTLAND INNS OF AMERICA LLC
HEARTLAND INN
3136 BROCKWAY RD
WATERLOO IA 50701-5103

Appeal Number: 04A-UI-12762-LT
OC: 11-07-04 R: 03
Claimant: Appellant (1)

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)

Iowa Code §96.5(1) – Voluntary Leaving

STATEMENT OF THE CASE:

Claimant filed a timely appeal from the November 23, 2004, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on December 21, 2004. Claimant did participate through the interpretation of Zijo Sucaska. Employer did participate through Debbie Bullion and Jean Biesk.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed as a full-time breakfast attendant through November 8, 2004 when she quit. Claimant did not call or report for work on November 5, 6 or 8, 2004. The employer's policy considers two consecutive absences without notice a voluntary quit. On November 4, Debbie Bullion had asked claimant to switch the waffle area around and claimant did not want to do so

and became upset. As she walked out the door, she said, "maybe I come back tomorrow, maybe I do not." She did not address concerns about the air conditioning and construction workers. Continued work was available.

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 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.

871 IAC 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 individual who voluntarily leaves their employment must first give notice to the employer of the reasons for quitting in order to give the employer an opportunity to address or resolve the complaint. Cobb v. Employment Appeal Board, 506 N.W.2d 445 (Iowa 1993).

Inasmuch as the claimant failed to report for work or notify the employer for three consecutive workdays in violation of the employer policy, the claimant is considered to have voluntarily left employment without good cause attributable to the employer. Nor has she met the requirements of Cobb. Benefits are withheld.

DECISION:

The November 23, 2004, reference 01, decision is affirmed. The claimant voluntarily left employment without good cause attributable to the employer. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

dml/smc