

**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**

**ROBIN R REED
2932 E GRAND
DES MOINES IA 50317**

**CENTRAL IOWA KFC INC
PO BOX 269
COLUMBUS JUNCTION IA 52738 0269**

**Appeal Number: 05A-UI-07898-H2T
OC: 07-03-05 R: 02
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)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the July 22, 2005, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on August 18, 2005. The claimant did participate along with her witness Robert Pester. The employer did participate through Mike O'Connor, District Supervisor.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a shift supervisor and cashier, part time, beginning January 19, 2004 through July 4, 2005 when she voluntarily quit. The claimant was sick on June 28 and off work until July 4, 2005. The claimant returned to work on July 4, and worked for approximately

forty-five minutes then went home sick. The claimant did not show up for her scheduled shift on July 5 and in fact never showed up for work again. The claimant alleges a coworker, Bill, told her on July 5 that she would be fired when she went back into work so she never returned to work. Only the store manager John Murrillo and District Supervisor Mike O'Connor have the authority to fire or discharge employees. The claimant admits that no management personnel ever told her she was discharged or fired. She just assumed she would be fired when she returned to work so she never returned to work. Had the claimant taken the time to call Mr. Murrillo or Mr. O'Connor she would have been told that she was not discharged.

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.

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code section 96.6-2 (amended 1998). Generally, when an individual mistakenly believes they are discharged from employment, but were not told so by the employer, and they discontinue reporting for work, the separation is considered a quit without good cause attributable to the employer. The claimant had only to call either Mr. Murrillo or Mr. O'Connor to learn whether she was discharged, yet she chose not to. The claimant's reliance on the statement of a coworker that she was discharged, is not good cause attributable to the employer. Benefits are denied.

DECISION:

The July 22, 2005, 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.

tkh/tjc