

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JOHN S BUCKLEY
Claimant

APPEAL NO. 08A-UI-08287-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**JAY MADI INC
ECONO LODGE**
Employer

**OC: 08/03/08 R: 02
Claimant: Appellant (1)**

Iowa Code Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

John Buckley filed a timely appeal from the September 8, 2008, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on October 1, 2008. Mr. Buckley participated. Jay Patel, co-owner, represented the employer.

ISSUES:

Whether Mr. Buckley voluntarily quit or was discharged from the employment. The administrative law judge concludes that Mr. Buckley voluntarily quit.

Whether Mr. Buckley's voluntary quit was for good cause attributable to the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: John Buckley was employed by the Best Western Motel in Grinnell from August 2007 until July 25, 2008. Mr. Buckley started as a night auditor, but became the full-time General Manager on January 1, 2008. Jay Patel, co-owner, functioned as Mr. Buckley's immediate supervisor. The other co-owner lives in Chicago. Mr. Patel oversees the Best Western Motel, but is more directly involved in managing the daily operations at another motel he owns, the Days Inn in Grinnell.

A couple weeks before the end of the employment, Mr. Buckley spoke with Mr. Patel about a vacation his family had planned for the end of July in Michigan. Mr. Buckley told Mr. Patel that he was not certain he wanted to go on the vacation. Mr. Buckley told Mr. Patel that he would be gone for approximately a week if he decided to go. Mr. Patel approved the vacation on the condition that Mr. Buckley had all shifts at the motel covered during his absence and that he maintained contact with the motel during the absence to ensure that all shifts were covered.

On July 24, 2008, the day before the scheduled start of the vacation, Mr. Buckley's wife decided she needed to speak with Mr. Patel regarding the employer not yet giving final approval for the vacation. Mrs. Buckley was not and is not an employee of the employer, but decided to give

Mr. Patel a piece of her mind. Mr. Buckley and Mrs. Buckley went to the Days Inn, where they knew Mr. Patel would be working. Mrs. Buckley questioned why Mr. Patel had not given final approval to the vacation request. Mrs. Buckley told Mr. Patel that her husband was not paid enough to have to meet the employer's conditions for final approval of the vacation. Mrs. Buckley told Mr. Patel that Mr. Buckley had put in sufficient work hours so that he should be able to take the vacation. Mr. Patel pointed out that Mrs. Buckley was not his employee and declined to discuss the matter with her.

Mr. Patel was willing to continue to work with Mr. Buckley to make certain that all shifts were covered, so that Mr. Buckley could take his vacation. As general manager of the Best Western Motel, Mr. Buckley was responsible for all aspects of the motel's operation. The employer had sent Mr. Buckley for training through Best Western and had provided two weeks of on-the-job training with the prior manager. The motel had four or five front desk employees and three or four housekeepers. Mr. Buckley was responsible for making certain that all shifts were covered and for hiring new staff as necessary. Mr. Buckley had not made certain that all front desk shifts would be covered during his vacation. The last day covered by the posted schedule was that very day, July 24, 2008. Mr. Buckley had not prepared a schedule for July 25 and beyond. Mr. Buckley and Mr. Patel both went to the Best Western Motel to speak with another employee, Doreen Noner, about covering the remaining shifts. Ms. Noner was already working a full schedule, had parenting responsibilities, and was not willing to pick up the additional shifts. Mr. Patel told Ms. Noner that she should help Mr. Buckley out because he had helped her out in the past. Ms. Noner was still unwilling to work the shifts because of the long hours that would be involved, got upset, and left the workplace. Mr. Buckley thought that Ms. Noner had quit. Mr. Buckley told Mr. Patel that he would continue to work on the schedule. Mr. Patel requested that Mr. Buckley delay the start of his vacation by two or three days so that the schedule could be rearranged and shifts for the week could be covered. Mr. Buckley was unwilling to delay the start of his vacation trip to Michigan.

On the morning of July 25, 2008, Mr. Buckley went to the workplace at around 6:00 a.m. Mr. and Mrs. Buckley intended to leave for Michigan at 7:00 a.m. Mr. Buckley left his keys to the safe in the office. Mr. Buckley told the night auditor that his departure on vacation was going to cost him his job. Mr. Buckley told the night auditor that if Ms. Noner did not appear for her day shift, that the night auditor should contact Mr. Patel. Mr. Buckley then left for vacation. A few hours later, as Mr. Buckley and his family were traveling across Illinois, Mr. Buckley received a telephone call from Ms. Noner. Ms. Noner told Mr. Buckley that a person that Mr. Buckley had previously fired had returned to his employment and was representing to her that he had been appointed manager. Mr. Buckley made no further contact with the employer. At no time, did the employer tell Mr. Buckley that he was discharged from the employment. Mr. Buckley returned to Iowa on August 2 or 3.

REASONING AND CONCLUSIONS OF LAW:

The first question is whether Mr. Buckley voluntarily quit or was discharged from the employment. A discharge is a termination of employment initiated by the employer for such reasons as incompetence, violation of rules, dishonesty, laziness, absenteeism, insubordination, or failure to pass a probationary period. 871 IAC 24.1(113)(c). A quit is a separation initiated by the employee. 871 IAC 24.1(113)(b). In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 698, 612 (Iowa 1980) and Peck v. EAB, 492 N.W.2d 438 (Iowa App. 1992). 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. See 871 IAC 24.25.

The greater weight of the evidence indicates that Mr. Buckley voluntarily quit and was not discharged from the employment. The evidence indicates that Mr. Buckley elected to abdicate his managerial responsibilities and take an unauthorized vacation. The evidence indicates that Mr. Buckley was aware, at the time he made his vacation request, of the conditions the employer placed on approval of the request. Given Mr. Buckley's position as general manager, the employer's requirement that Mr. Buckley ensure proper staffing of the motel before he commence an extended vacation period was reasonable. At the time Mr. Buckley left the employment on July 25, 2008, he did so knowing that the motel lacked sufficient staff to cover his shifts and did so under the belief that Ms. Noner had quit, thus leaving even more shifts unfilled. Mr. Buckley surrendered his keys without being asked to. Mr. Buckley announced to the night auditor that his employment was likely at an end. Mr. Buckley made no further contact with the employer, not even to follow up on the rumor that he had been replaced.

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 evidence in the record indicates that Mr. Buckley voluntarily separated from the employment for personal reasons and not for good cause attributable to the employer. Mr. Buckley separated from the employment because he did not want to displease his spouse. Mr. Buckley separated from the employment because he viewed his vacation plans as more important than his continued employment and was not willing to delay the start of his vacation.

Mr. Buckley voluntarily quit the employment without good cause attributable to the employer. Accordingly, Mr. Buckley is disqualified for benefits until he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. The employer's account shall not be charged for benefits paid to Mr. Buckley.

DECISION:

The Agency representative's September 8, 2008, reference 01, decision is affirmed. The claimant voluntarily quit the employment without good cause attributable to the employer. The claimant is disqualified for benefits until he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. The employer's account shall not be charged.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

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