

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**LATASHA A PRESTON**

Claimant

**APPEAL 16A-UI-12564-CL-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**AKSHAYA FORT DODGE LLC**

Employer

**OC: 10/16/16**

**Claimant: Respondent (1)**

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Iowa Code § 96.5(1) – Voluntary Quitting

Iowa Code § 96.5(2)a – Discharge for Misconduct

Iowa Code § 96.3(7) – Recovery of Benefit Overpayment

Iowa Admin. Code r. 871-24.10 – Employer/Representative Participation Fact-finding Interview

**STATEMENT OF THE CASE:**

The employer filed an appeal from the November 15, 2016, (reference 02) unemployment insurance decision that allowed benefits based upon a separation from employment. The parties were properly notified about the hearing. A telephone hearing was held on December 12, 2016. Claimant did not participate. Employer participated through area supervisor Janelle Greer, property supervisor Kim Larson, and owner Mike Raja. Employer's Exhibit 1 was received.

**ISSUES:**

Did claimant voluntarily leave the employment with good cause attributable to the employer or did employer discharge the claimant for reasons related to job misconduct sufficient to warrant a denial of benefits?

Has the claimant been overpaid unemployment insurance benefits, and if so, can the repayment of those benefits to the agency be waived?

Can charges to the employer's account be waived?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for employer on April 4, 2016. Claimant last worked as a front desk clerk. Claimant was separated from employment on August 21, 2016, when she resigned.

On August 17, 2016, claimant was working when a guest who had an online reservation appeared at the hotel. The guest's credit card was charged for the stay. However, approximately three days later, the guest called employer and stated she paid cash for her hotel stay so her credit card should not have been charged. The guest told employer she would email a copy of the receipt she received for paying with cash. However, the guest never provided a copy of the receipt to employer. Employer believed claimant pocketed the guest's cash and did not enter receipt of cash into the employer's computer system. Employer

reviewed surveillance footage of the transaction, but was not able to see what occurred. Claimant denied taking any cash that did not belong to her, but employer did not believe her. On August 21, 2016, employer informed claimant that was required to pay the employer for the cost of the guest's stay before she could return to work. Claimant declined to do so and did not return to work the next week.

### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes claimant voluntarily left the employment with good cause attributable to the employer.

Iowa Code §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.

Iowa Admin. Code r. 871-24.26(3) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(3) The claimant left due to unlawful working conditions.

In this case, a customer reported paying cash for a one-night stay for which her credit card was charged. Employer did not obtain the necessary evidence to determine whether the guest actually paid cash as reported. Employer did not obtain a copy of the alleged receipt showing the customer paid cash and was unable to see what occurred on surveillance video. Even assuming the customer actually paid cash, employer has not established that the cash was not misplaced or that the transaction was inadvertently entered incorrectly into the computer system. Claimant denied taking the cash and was unsure of what happened. It is not clear employer itself believed claimant stole the cash. Most reasonable employers would have terminated an employee who was a confirmed thief and made a police report. Instead, employer demanded claimant pay for the hotel guest's stay before returning to work. Employer was not entitled to demand that claimant pay the employer for the guest's stay in this situation. See also Iowa Code §91A.5(2)(a).

Thus, claimant's resignation was with good cause attributable to employer.

Because claimant's separation was not disqualifying, the issues regarding overpayment are moot and will not be discussed further in this decision.

### **DECISION:**

The November 15, 2016, (reference 02) unemployment insurance decision is affirmed. Claimant voluntarily left the employment with good cause attributable to the employer. Benefits are allowed, provided she is otherwise eligible.

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Christine A. Louis  
Administrative Law Judge  
Unemployment Insurance Appeals Bureau  
1000 East Grand Avenue  
Des Moines, Iowa 50319-0209  
Fax (515)478-3528

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Decision Dated and Mailed

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