

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RHONDA J STEIL

Claimant

APPEAL NO. 08A-UI-06653-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ACKERMAN INVESTMENT CO

Employer

**OC: 06/15/08 R: 02
Claimant: Appellant (5)**

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Rhonda J. Steil (claimant) appealed a representative's July 15, 2008 decision (reference 01) that concluded she was not qualified to receive benefits, and the account of Ackerman Investment Company (employer) would not be charged because the claimant had been discharged for disqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on August 5, 2008. The claimant participated in the hearing. Marilyn Bash was available to testify on the claimant's behalf. Molly Hiscox, the hotel manager, and Tabitha Rejba, the claimant's daughter and assistant housekeeper in mid-May, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, 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 the claimant for work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer on December 17, 2007. The claimant worked part time or between 14 and 25 hours a week. When the claimant accepted employment, she understood she would only be cleaning rooms and would be required to be at work at 7:45 a.m.

The houseman, an employee who starts work at 5:00 a.m. to clean the public areas of the hotel, works five days a week. The employer rotates the housekeeping staff to work the other two days. The claimant agreed to work as the houseman on April 28 and 29. Since the claimant did not have a vehicle to get to work, on April 28 by 5:00 a.m., the employer paid for a cab that day to transport the claimant to work. On April 29, the claimant found another person to take her to work at 5:00 a.m. If the claimant was scheduled to work as a houseman between April 29 and May 12, she did not work as scheduled.

During her employment, the claimant had attendance issues. On April 30, 2008, the employer gave the claimant a written verbal warning for failing to properly notify the employer she was

unable to work as scheduled. The employer wants employees to notify the employer two hours before a scheduled shift when they are unable to work as scheduled.

Hiscox scheduled the claimant to work at 5:00 a.m. on May 12 and 13. Hiscox started scheduling the claimant the 5:00 a.m. shift after the claimant asked for more hours. When the claimant worked on May 10 she did not indicate she had any transportation problems in getting to work on May 2. If the claimant would have talked to Hiscox or left her message, Hiscox could have scheduled another employee to work that shift or the employer would have made transportation arrangements for the claimant to get to work by 5:00 a.m.

During a phone conversation the claimant had with Rejba on May 11, 2008, Rejba understood the claimant had transportation to work the next morning and would be at work by 5:00 a.m. The claimant did not report to work on May 12 or 13. The claimant did not notify the employer that she was unable to work either day. The claimant did not contact the employer any time after May 12 to find out about her employment or continued employment.

REASONING AND CONCLUSIONS OF LAW:

The first issue that must be addressed in this case is witness credibility of the claimant and her daughter, Rejba. If the claimant told Rejba on May 11 she was unable to get to work at 5:00 a.m. on May 12, it is difficult to understand why Rejba did not contact Hiscox immediately or direct the claimant to contact her immediately so the 5:00 a.m. shift would be covered. It is also difficult to understand why the claimant would not protest her discharge if Rejba told her on May 12 that she no longer had a job. Finally, the claimant asserted she did not have transportation to get to work by 5:00 a.m, but a relative's car was missing and discovered at the claimant's home on May 12. The fact the claimant did not have a driver's license does not mean she did not drive illegally, which Rejba saw the claimant do. Finally, the claimant protested too much about the 5:00 a.m. shift. Even if the employer had not said anything to her about an occasional 5:00 a.m. shift at the time of hire, the claimant had already agreed to work at 5:00 a.m. at least two previous days. The evidence suggests the claimant really did not want to work at 5:00 a.m. and if she had transportation problems on May 12 she did nothing in an attempt to arrange to get to work on May 12. In reality, the claimant had transportation available, but for personal reasons did not report to work on May 12 or 13. Based on the claimant's testimony and her failure to take reasonable steps on May 12 and 13 to remain employed, her testimony is not credible. Therefore, Rejba's version of events is cited in the findings of fact.

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 §§ 96.5-1, 2-a. The facts establish the claimant voluntarily quit her employment when she failed to contact the employer or return to work any time after May 11, 2008. For unemployment insurance purposes, the claimant voluntarily quit her employment.

When a claimant quits, she has the burden to establish she quit for reasons that qualify her to receive benefits. Iowa Code § 96.6-2. The law presumes a claimant voluntarily quits employment without good cause when she leaves because she dislikes a shift. 871 IAC 24.25(18).

A preponderance of the credible evidence establishes the claimant quit her employment because she did not want to work the 5:00 a.m. shift on May 12 and 13 and she knew her daughter was extremely furious at her about a personal family issue. The claimant abandoned

or quit her employment for personal reasons that do not qualify her to receive benefits. As of June 15, 2008, the claimant is not qualified to receive benefits.

DECISION:

The representative's July 15, 2008 decision (reference 01) is modified, but the modification has no legal consequence. The claimant voluntarily quit her employment by failing to return to work or contact the employer any time after May 11, 2008. The claimant quit for reasons that do not qualify her to receive benefits. The claimant is disqualified from receiving unemployment insurance benefits as of June 15, 2008. 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.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css