

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

NEKEYSHIA N HARINGTON
Claimant

APPEAL NO: 14A-UI-07114-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

KINSETH HOTEL CORPROATION
Employer

OC: 06/08/14
Claimant: Respondent (4-R)

Section 96.5-1 – Voluntary Quit
871 IAC 24.25(28) – Reprimand
Section 96.5-1-g – Benefit Re-qualification
Section 96.3-7 – Recovery of Overpayment

STATEMENT OF THE CASE:

The employer appealed a department decision dated July 3, 2014, reference 04, that held the claimant was not discharged for misconduct on March 19, 2014, and benefits are allowed. A telephone hearing was held on August 4, 2014. The claimant did not participate. Jerry Sander, Representative, Mia Kelly, Housekeeping Manager, and Scott Bollman, HR Rep/Bookkeeper, participated for the employer.

ISSUE:

Whether the claimant voluntarily quit without good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge having heard the witness testimony and having considered the evidence in the record finds: The claimant began employment on March 7, 2013, and last worked for the employer as a full-time housekeeper on March 19, 2014. The employer received a guest complaint that claimant told the person to strip the bedding so claimant could change it.

Housekeeper Kelly called the claimant about the guest complaint and learned it was true. Claimant said she didn't have the time to strip the bedding and change it. Kelly instructed claimant to come in and discuss the complaint with the GM. Claimant responded she wasn't coming in and never returned to work.

The department record shows claimant subsequently worked at LA Leasing (#237958) and earned gross wages of \$3,120 for the second quarter 2014. Her weekly benefit amount (WBA) is \$153. The department issued a July 1, 2014 reference 02 decision that denied claimant benefits from this employer as a voluntary quit without good cause on June 11, 2014. Claimant did not appeal. The department also issued an overpayment decision.

Claimant failed to respond to the hearing notice. There is no UI Appeals C2T record claimant called in with a phone number to be contacted for the hearing.

REASONING AND CONCLUSIONS OF LAW:

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. 871-24.25(28) 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:

(28) The claimant left after being reprimanded.

The administrative law judge concludes claimant voluntarily quit without good cause attributable to her employer March 19, 2014 for facing a reprimand due to a guest complaint.

A reasonable inference is claimant knew she would be facing a reprimand due to a guest complaint and she chose to quit rather than to come in and discuss it with the GM.

Iowa Code § 96.5-1-g 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. But the individual shall not be disqualified if the department finds that:

g. The individual left work voluntarily without good cause attributable to the employer under circumstances which did or would disqualify the individual for benefits, except as provided in paragraph "a" of this subsection but, subsequent to the leaving, the individual worked in and was paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

The administrative law judge further concludes claimant has re-qualified for benefits with LA Leasing after her March 19, 2014 employment separation from the employer.

Her WBA is \$153 and ten times to requalify is \$1,500. She has \$3,120 earnings from her subsequent employer. Claimant should note the department issued a decision she is disqualified from this employer as a voluntary quit without any appeal.

DECISION:

The department decision dated July 3, 2014, reference 04, is modified. The claimant voluntarily quit without good cause attributable to her employer on March 19, 2014 but has re-qualified. Benefits are allowed, provided the claimant is otherwise eligible. NOTE: Claimant is currently disqualified from LA Leasing.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/pjs