

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**TERI J MAYES**  
Claimant

**APPEAL NO. 07O-UI-05962-CT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**NELLIS MANAGEMENT COMPANY**  
Employer

**OC: 02/25/07 R: 04  
Claimant: Respondent (2)**

Section 96.5(1) – Voluntary Quit  
Section 96.3(7) – Recovery of Overpayments

**STATEMENT OF THE CASE:**

Nellis Management Company filed an appeal from a representative's decision dated March 19, 2007, reference 01, which held that no disqualification would be imposed regarding Teri Mayes' separation from employment. After due notice was issued, a hearing was held by telephone on April 12, 2007. The April 23, 2007 decision of the administrative law judge reversed the allowance and assessed an overpayment. Ms. Mayes filed a further appeal with the Employment Appeal Board which, on June 12, 2007, remanded the matter for a new hearing because the recording of the prior hearing could not be transcribed due to excessive static.

Pursuant to the remand, due notice was issued scheduling a telephone hearing on July 2, 2007. Ms. Mayes participated personally and was represented by Jack Dane, Attorney at Law. The employer participated by Cindy Amoreno, Area Supervisor.

**ISSUE:**

At issue in this matter is whether Ms. Mayes was separated from employment for any disqualifying reason.

**FINDINGS OF FACT:**

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Mayes' last period of employment with Nellis Management Company began in February of 2001. During the last 2.5 years of her employment, she was general manager of a restaurant containing both Long John Silvers and A & W. She worked in the employer's Davenport, Iowa, location. On January 25, 2007, she was notified that she was being transferred to the employer's location across the river in Moline, Illinois. The employer felt that transferring Ms. Mayes to a location that was not as busy would enable her to correct some of her performance issues. She had no prior knowledge that her performance was such that she might be transferred.

Ms. Mayes did not want to transfer to the new location because she would not receive the bonuses she had received at the Davenport location. Her bonuses had been as much as

\$12,000.00 per year. She also did not want to transfer because it would have added 20 minutes or more to her commute. On January 29, Ms. Mayes resigned due to the proposed transfer. The written resignation was given to her area supervisor. The supervisor spoke to upper management and it was decided that Ms. Mayes would be allowed to stay at the Davenport location. The employer considered her a good manager and did not want to lose her as an employee. She was notified on January 30 that her resignation was not accepted and that she could remain at her current location. There would have been no change in her title, pay, or other terms of employment.

Ms. Mayes was advised on January 30 that there would need to be changes made in her job performance in order to meet company goals. Although she was a good manager, some of her ratings and scores were not within company standards. She notified the employer on January 31 that her resignation stood. Continued work would have been available if Ms. Mayes had not quit.

Ms. Mayes filed a claim for job insurance benefits effective February 25, 2007. She received a total of \$2,160.00 in benefits after filing her claim.

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

An individual who voluntarily quits employment is disqualified from receiving job insurance benefits unless the quit was for good cause attributable to the employer. Iowa Code section 96.5(1). Ms. Mayes quit because she did not want to address issues concerning her job performance. Although the employer had proposed a transfer to a different location, that decision had been rescinded. The fact that the location in Moline was not as profitable as the Davenport location is irrelevant. The fact that no bonuses may have been available to Ms. Mayes in Moline is likewise irrelevant, as is the commuting distance. Given that the employer had withdrawn the decision to transfer her, any difference between the two locations was moot. Ms. Mayes did not dispute that she was offered the opportunity to remain at the Davenport location.

Ms. Mayes re-affirmed her decision to quit because the employer advised her that she would need to show improvement in certain areas of her performance. She decided to quit rather than work on the performance issues. The question of whether she would have been discharged eventually due to poor performance is speculative. She quit before making any attempt to work with the employer to see if the problems could be corrected. For the reasons cited herein, the administrative law judge concludes that Ms. Mayes' quit was not for good cause attributable to the employer. Accordingly, benefits are denied.

Ms. Mayes has received benefits since filing her claim effective February 25, 2007. The overpayment of \$2,160.00 assessed in the administrative law judge's decision of April 23, 2007 is still in effect.

#### **DECISION:**

The representative's decision dated March 19, 2007, reference 01, is hereby reversed. Ms. Mayes voluntarily quit her employment for no 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 job insurance benefit amount, provided she satisfies all other conditions of eligibility. Ms. Mayes has been overpaid \$2,160.00 in job insurance benefits.

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Carolyn F. Coleman  
Administrative Law Judge

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Decision Dated and Mailed

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