

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**TAMARA L THOMAS**  
Claimant

**APPEAL NO. 16R-UI-00844-TN-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**MOTEL 60 & VILLA INC**  
Employer

**OC: 11/08/15**  
**Claimant: Appellant (1)**

Section 96.5(1) – Voluntary Quit

**STATEMENT OF THE CASE:**

Tamara Thomas, the claimant, filed a timely appeal from a representative's decision dated November 25, 2015 (reference 01) which denied unemployment insurance benefits, finding that the claimant voluntarily quit work on November 6, 2015 by refusing to continue working. A hearing was held on December 16, 2015. The claimant did not participate in the hearing. On December 17, 2015, a default decision was entered by an administrative law judge based upon the claimant's non-participation in the scheduled hearing. Ms. Thomas filed an appeal with the Employment Appeal Board on January 22, 2016. The Employment Appeal Board remanded the matter back to the Appeal Bureau for a due process hearing after due notice and the issuance of an appealable determination, finding that Ms. Thomas had not received the initial notice of hearing. In compliance with the Employment Appeal Board's directive, a telephone hearing was scheduled and notices were sent to the parties and a telephone hearing was conducted on February 22, 2016; at which time the claimant participated personally. The employer participated by Mr. Jeff Meng, Company Owner.

**ISSUE:**

At issue is whether the claimant left employment with good cause attributable to the employer.

**FINDINGS OF FACT:**

Having considered all of the evidence in the record, the administrative law judge finds: Tamara Thomas was employed by the captioned motel from August 2010 until November 6, 2015; when she left employment. Ms. Thomas was employed as a part-time desk clerk/housekeeper and was paid by the hour. Her immediate supervisor was the owner Jeff Meng.

Ms. Thomas reported for her scheduled shift on November 6, 2015. At approximately 8:30 a.m. that day, the claimant received a phone call informing her that her personal friend had been found dead. At approximately 9:00 a.m., Ms. Thomas informed the company owner that she wanted to take a ten-minute break to "clear her head." Ms. Thomas did not remain at the employer's facility but instead went to her residence and did not return to work.

At approximately 9:25 a.m. on November 6, 2015, Ms. Thomas' husband arrived at Motel 60 & Villa Inc. and turned in company keys and stated that the claimant "was not coming back." The claimant's husband then telephoned the claimant in the presence of Mr. Meng and said to the claimant "Just give Jeff your notice." Mr. Meng attempted to speak with the claimant directly on the telephone; however, Ms. Thomas disconnected. Ms. Thomas did not return to her employment that day or thereafter, and had no further contact with the employer.

It is Ms. Thomas' position that she was upset about the death of her close friend and had gone home instead of taking a break because she was too upset to work. It is the claimant's further position that she had instructed her husband to give Mr. Meng her facility keys and to tell Mr. Meng that she would be back Saturday morning. The claimant had then become further upset because her husband had reported that Mr. Meng did not appear sufficiently upset at the death, although he knew the woman that had unexpectedly passed away.

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

For the reasons that follow, the administrative law judge concludes that the claimant left the employment without good cause that was 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(4) 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:

(4) The claimant left due to intolerable or detrimental working conditions.

Iowa Admin. Code r. 871-24.25(21) 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:

(21) The claimant left because of dissatisfaction with the work environment.

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 608, 612 (Iowa 1980) and Peck v. Employment Appeal Board, 492 N.W. 2d 438 (Iowa Ct. 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. When a person voluntarily quits the employment due to dissatisfaction with the work environment or the inability to work with other employees or supervisors, the quit is deemed to be without good cause attributable to the employer. See 871 IAC 24.25(21) and (6). Quits due to intolerable or detrimental working conditions are deemed to be for good cause attributable to the employer. See 871 IAC 24.26(4). The test is whether a reasonable person would have quit under the circumstances. See Aalbers v. Iowa Department of Job Services, 431 N.W.2d 330 (Iowa 1988) and O'Brien v. Employment Appeal Board, 494 N.W.2d 660 (Iowa 1993).

In the case at hand, Ms. Thomas was upset at the unexpected death of a personal friend. The claimant requested to take a ten-minute break to calm herself but instead left the premises, went home, and did not return. A short time later, the claimant's husband appeared at the employer's facility stating that "Tammy is not coming back;" and turned in the claimant's work keys to the employer. The claimant's husband then telephoned the claimant in the presence of Mr. Meng and instructed the claimant to notify Mr. Meng that she was quitting. When Mr. Meng attempted to speak with Ms. Thomas during the same call, the claimant disconnected. The employer had not been given any indication that Ms. Thomas intended to return to work at a later date, the employer was not contacted by Ms. Thomas, and Ms. Thomas did not again report for work. Ms. Thomas testified that she and her husband because Mr. Meng did not appear to be sufficiently concerned about the death of Ms. Thomas' friend.

When Ms. Thomas had no further contact with the employer and did not again report for work, the employer reasonably concluded that Ms. Thomas had quit her employment.

In this case, the claimant left work without authorization and instead of returning to work that day she sent her husband who verified the claimant's intention to quit by returning the claimant's work keys and informing the employer that Ms. Thomas would not be returning to work. In addition to the overt act confirming the claimant's intention to quit, Ms. Thomas did not again report for scheduled work and made no effort to contact the employer to state that it had not been her intention to quit or that there had been a misunderstanding.

For the above stated reasons, the administrative law judge concludes that the claimant voluntarily quit her employment for personal reasons that were not attributable to the employer. Accordingly, the claimant is disqualified for unemployment insurance benefits until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount; and meets all other eligibility requirements of Iowa law.

**DECISION:**

The representative's decision dated November 25, 2015 (reference 01) is affirmed. The claimant voluntarily quit employment without good cause attributable to the employer. Unemployment insurance benefits until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount; and is otherwise eligible.

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Terence P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

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