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

AMBER M PHILLIPS
Claimant

**LQ MANAGEMENT LLC
LA QUINTA INNS/BAYMONT INNS**
Employer

APPEAL NO: 13A-UI-10446-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 08/04/13
Claimant: Appellant (2)

Section 96.5-1 – Voluntary Leaving
Section 96.7-2-a(2) – Charges Against Employer's Account

STATEMENT OF THE CASE:

Amber M. Phillips (claimant) appealed a representative's September 12, 2013 decision (reference 01) that concluded she was not qualified to receive unemployment insurance benefits after a separation from employment with LQ Management, L.L.C. / La Quinta Inns/Baymont Inns (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on October 7, 2013. The claimant participated in the hearing. The employer failed to respond to the hearing notice and provide a telephone number at which a witness or representative could be reached for the hearing and did not participate in the hearing. Based on the evidence, the arguments of the claimant, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUES:

Did the claimant voluntarily quit for a good cause attributable to the employer? Is the employer's account subject to charge?

OUTCOME:

Reversed. Benefits allowed. Employer's account not subject to charge in current benefit year.

FINDINGS OF FACT:

The claimant started working for the employer on May 8, 2013. She worked part time (about 25 hours per week) as a housekeeper at the employer's Davenport, Iowa hotel. Her last day of work was July 2, 2013. She voluntarily quit work as of that date.

The claimant had been accosted by guests who had marijuana in their rooms and by guests who attempted to proposition her. Most recently some of her coworkers had physically grabbed away carts which she had prepared for her use, using vulgar language towards her. The head housekeeper had been aware of the issues but had no relief she could offer to the claimant. As a result, the claimant determined to quit the employment.

The claimant established an unemployment insurance benefit year effective August 4, 2013.

REASONING AND CONCLUSIONS OF LAW:

If the claimant voluntarily quit her employment, she is not eligible for unemployment insurance benefits unless it was for good cause attributable to the employer. Iowa Code § 96.5-1. Intolerable or detrimental working conditions are good cause for quitting attributable to the employer. 871 IAC 24.26(4). The claimant has demonstrated that a reasonable person would find the employer's work environment detrimental or intolerable. *O'Brien v. EAB*, 494 N.W.2d 660 (Iowa 1993); *Uniweld Products v. Industrial Relations Commission*, 277 So.2d 827 (FL App. 1973). Benefits are allowed.

The final issue is whether the employer's account is subject to charge. An employer's account is only chargeable if the employer is a base period employer. Iowa Code § 96.7. The base period is "the period beginning with the first day of the five completed calendar quarters immediately preceding the first day of an individual's benefit year and ending with the last day of the next to the last completed calendar quarter immediately preceding the date on which the individual filed a valid claim." Iowa Code § 96.19-3. The claimant's base period began April 1, 2012 and ended March 31, 2013. The employer did not employ the claimant during this time, and therefore the employer is not currently a base period employer and its account is not currently chargeable for benefits paid to the claimant.

DECISION:

The representative's September 12, 2013 decision (reference 01) is reversed. The claimant voluntarily quit for good cause attributable to the employer. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible. The employer's account is not subject to charge in the current benefit year.

_____
Lynette A. F. Donner
Administrative Law Judge

_____
Decision Dated and Mailed

ld/pjs