

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**VICTORIA L MAIKRANZ**  
Claimant

**APPEAL NO: 09A-UI-11185-DT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**BRM II LC**  
Employer

**OC: 06/14/09**  
**Claimant: Respondent (2)**

Section 96.5-1 – Voluntary Leaving

**STATEMENT OF THE CASE:**

BRM II, L.C. doing business as Burger King (employer) appealed a representative's July 29, 2009 decision (reference 02) that concluded Victoria L. Maikranz (claimant) was qualified to receive unemployment insurance benefits after a separation from employment. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on August 20, 2009. The claimant failed to respond to the hearing notice and provide a telephone number at which she could be reached for the hearing and did not participate in the hearing. Cris Scheibe of TALX Employer Services appeared on the employer's behalf and presented testimony from one witness, Doug Lewis. One other witness, Jim Snell, was available on behalf of the employer but did not testify. Based on the evidence, the arguments of the employer, 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 for a good cause attributable to the employer?

**FINDINGS OF FACT:**

The claimant started working for the employer on May 19, 2007. She worked part time (20-30 hours per week) as a cashier at the employer's Des Moines, Iowa area restaurant. Her last day of work was September 18, 2008. She was scheduled to work a shift from 4:00 p.m. to 9:00 p.m. on September 20. However, she was; a no-call/no-show for that shift. When she had not reported for work by about 4:20 p.m., the manager, Mr. Lewis called and reached the claimant by phone. He asked if she was coming into work; she responded that she was at a friend's house and was not coming in. Mr. Lewis did not say anything further as to the impact on the claimant. She was next scheduled to work a 4:00 p.m. to 9:00 p.m. shift on September 22. She was again a no-call/no-show for work. This time the employer did not attempt to call the claimant. The claimant did not further report for scheduled shifts or contact the employer. About a week later, the claimant's mother picked up her final paycheck, but there was no further information provided as to why the claimant had ceased reporting for work.

The claimant established a claim for unemployment insurance benefits effective June 14, 2009. The claimant has received no unemployment insurance benefits since the separation from employment.

**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.

Rule 871 IAC 24.25 provides that, 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. A voluntary leaving of employment requires an intention to terminate the employment relationship and an action to carry out that intent. Bartelt v. Employment Appeal Board, 494 N.W.2d 684 (Iowa 1993); Wills v. Employment Appeal Board, 447 N.W.2d 137, 138 (Iowa 1989). The intent to quit can be inferred in certain circumstances. For example, failing to report and perform duties as assigned is considered to be a voluntary quit. 871 IAC 24.25(27). The claimant did exhibit the intent to quit and did act to carry it out. The claimant would be disqualified for unemployment insurance benefits unless she voluntarily quit for good cause.

The claimant has the burden of proving that the voluntary quit was for a good cause that would not disqualify her. Iowa Code § 96.6-2. The claimant has not satisfied her burden. Benefits are denied.

**DECISION:**

The representative's July 29, 2009 decision (reference 02) is reversed. The claimant voluntarily left her employment without good cause attributable to the employer. As of September 20, 2008, benefits are withheld until such time as the claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

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Lynette A. F. Donner  
Administrative Law Judge

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Decision Dated and Mailed

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