

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JEREMY M DECKER
Claimant

APPEAL NO. 07A-UI-04399-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

COTTAGE OF IOWA CITY INC
Employer

**OC: 04/01/07 R: 03
Claimant: Appellant (1)**

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated April 23, 2007, reference 01, that concluded he voluntarily quit employment without good cause attributable to the employer. A telephone hearing was held on May 16, 2007. The parties were properly notified about the hearing. The claimant participated in the hearing with witnesses, Rita Decker and Steve Decker. Judy Gates participated in the hearing on behalf of the employer with a witness, Lora Miller.

ISSUE:

Did the claimant voluntarily quit employment without good cause attributable to the employer?

FINDINGS OF FACT:

The claimant worked part time for the employer from February 3, 2006, to April 2, 2007, as a dishwasher. The general manager, Judy Gates, was his supervisor.

In November 2006, the claimant had asked a supervisor if he could leave work early. The supervisor told the claimant that he could leave if he had finished cleaning the bathrooms. The claimant claimed that he had cleaned the bathrooms and left work. The supervisor later discovered that the bathrooms had not been cleaned. The next day the claimant called in sick. Gates spoke to the claimant and ask him if he was really sick or was absent because he knew he was in trouble from the day before. The claimant insisted that he was sick. Gates then told him that she was going to call him every hour so he better be at home. This upset the claimant because he felt Gates was suggesting he was lying about being sick.

Sometime near the beginning of April the restaurant owner, Lora Miller, had assigned the claimant the job of vacuuming the lobby and sweeping the stairs. After Miller left, he complained angrily to the other staff members about having to do the vacuuming and sweeping. A supervisor reported this to Gates the next day. Gates had received similar complaints about the claimant constantly complaining about work from other staff members. She had personally observed such behavior in a talk to the claimant before about it.

Gates and Miller met with the claimant on April 4, 2007, and they discussed the claimant's negative attitude while he was at work. Miller asked the claimant if he could report to work and display a better attitude. The claimant's response was that he guessed that he would just quit. The claimant quit because he believed he was being criticized unjustly.

Gates and Miller intended to tell the claimant that they were reducing the number of days the claimant worked from five days to two days. The claimant, however, quit employment before the reduction in his hours was mentioned.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant voluntarily quit employment without good cause attributable to the employer.

Iowa Code section 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.

871 IAC 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 findings of fact show how I resolved the disputed factual issues in this case by carefully assessing the credibility of the witnesses and reliability of the evidence and by applying the proper standard and burden of proof. Gates testified credibly that there was no mention of any reduction in the claimant's hours before he quit. Her evidence outweighs the claimant's testimony that he knew about the reduction before he quit. Since he did not know his hours were going to be reduced, it cannot be considered as a reason for his quitting.

He quit work because he believed that he was being treated unfairly. Gates telling him that she was going to call him hourly was unreasonable but the claimant did not quit at that point, he continued to work. The employer was justified in discussing the claimant's attitude as I believe the employer's testimony that he repeatedly complained to other employees about work. No good cause for quitting has been proven in this case.

DECISION:

The unemployment insurance decision dated April 23, 2007, reference 01, is affirmed. The claimant is disqualified from receiving unemployment insurance benefits until he has been paid

wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/pjs