

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

RONDA L LARIMER
3107 HWY E66
CHELSEA IA 52215

SAC & FOX TRIBE
MESKWAKI BINGO CASINO & HOTEL
1504 – 305TH ST
TAMA IA 52339-9697

Appeal Number: 04A-UI-06574-CT
OC: 05/23/04 R: 02
Claimant: Appellant (1)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Ronda Larimer filed an appeal from a representative's decision dated June 9, 2004, reference 01, which denied benefits based on her separation from Meskwaki Bingo Casino & Hotel (Meskwaki). After due notice was issued, a hearing was held by telephone on July 12, 2004. Ms. Larimer participated personally and Exhibit A was admitted on her behalf. The employer participated by Carol Crawford, Bingo Concession Manager, and Allan Young, Human Resources Director.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all the evidence in the record, the administrative law judge finds: Ms. Larimer began her employment with Meskwaki on April 3, 2003 working full time in the concession area. She suffers from Meniere's disease which causes dizziness and a loss of balance. Because she worked around the grill and fryers, she felt her condition posed a health risk. Therefore, she asked her supervisor if she could be assigned to only working at the cash register. Ms. Larimer was told that she could not be relieved of some of her duties unless she provided medical documentation that she could not perform all of her duties. Ms. Larimer did not provide her supervisor with medical documentation but did submit her two week's notice on or about May 12, 2003.

One or two days after submitting her resignation, Ms. Larimer spoke to Allan Young in human resources about the possibility of transferring to a different position because of her medical condition. She was told that transfers were not usually allowed during the 90-day probationary period but that an exception would be considered if she provided medical documentation of the need to transfer. The casino shut down on May 23. As of that date, the employer had not received any medical documentation from Ms. Larimer and no decision had been made concerning her request for a transfer.

On or about December 22, managers returned to work and began the process of recalling employees to work. Carol Crawford, Ms. Larimer's former supervisor, had not started the process of recalling employees when Ms. Larimer came to the workplace and submitted a resignation, citing health reasons as the reason for the quit. She did not contact Ms. Crawford or Mr. Young as to the status of her transfer request. As of December 22, she still had not submitted medical documentation of the need to transfer from concessions.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Ms. Larimer was separated from employment for any disqualifying reason. An individual who leaves employment voluntarily 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. Larimer had the burden of proving that her quit was for good cause attributable to the employer. Iowa Code Section 96.6(2). She left the employment for medical reasons. The administrative law judge does not doubt that Ms. Larimer's medical condition compromised her ability to safely perform her job in concessions. However, it does not appear that she gave the employer a fair and reasonable opportunity to accommodate her condition. She was told by Ms. Crawford that the employer would need medical documentation in order to make changes in her job duties. However, Ms. Larimer gave her two week's notice without providing the requested documentation.

Ms. Larimer sought a transfer approximately two days after submitting her resignation on May 12. Mr. Young told her that a transfer to a different job would be considered if she provided medical documentation. The transfer process was not completed before the casino shut down on May 23. Ms. Larimer did not follow-up on the transfer with Mr. Young in December before submitting her resignation again. The casino was just in the process of bringing employees back when Ms. Larimer resigned. Therefore, it is unlikely that she would have been told that her former position in concessions was already filled. Because she did not give the employer an opportunity to make a transfer decision when the casino was in the process of reopening, it is concluded that her quit in December was not for good cause

attributable to the employer. Accordingly, benefits are denied on the claim filed effective May 23, 2004.

DECISION:

The representative's decision dated June 9, 2004, reference 01, is hereby affirmed. Ms. Larimer voluntarily quit her employment on December 22, 2003 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.

cfc/b