

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JULIE LANDRY
Claimant

APPEAL NO. 07A-UI-11252-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

IOWA CONSTRUCTION LOGISTICS INC
Employer

**OC: 10/28/07 R: 02
Claimant: Respondent (4)**

Section 96.5-1-a - Voluntary Leaving - Other Employment
871 IAC 24.28(5) - Voluntary Quit Requalifications

STATEMENT OF THE CASE:

Iowa Construction Logistics, Inc. (employer) appealed an unemployment insurance decision dated December 4, 2007, reference 03, which held that Julie Landry (claimant) was eligible for unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on December 19, 2007. The claimant provided a telephone number but was not available when that number was called for the hearing, and therefore, did not participate. The employer participated through Charlie Duncan, General Manager. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

The issue is whether the claimant's voluntary separation from employment qualifies her to receive unemployment insurance benefits?

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The employer managed payroll and benefits for InPlay Stadium Bar & Grill of Des Moines from February 2007 through May 24, 2007. The claimant worked for InPlay as a part-time bartender/server prior to the employer's contract with InPlay and after its contract was completed. However, when the employer was managing InPlay's payroll and benefits, the claimant was actually an employee of the employer. The employer's contract was completed on May 24, 2007, at which point InPlay began managing its own payroll and benefits. The claimant continued her employment with no changes except that she was subsequently paid by InPlay as of May 5, 2007.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the reasons for the claimant's separation from employment qualify her to receive unemployment insurance benefits. For the reasons that follow, the administrative law judge concludes the claimant voluntarily left her employment to accept employment elsewhere.

Iowa Code section 96.5-1-a 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. But the individual shall not be disqualified if the department finds that:

a. The individual left employment in good faith for the sole purpose of accepting other or better employment, which the individual did accept, and the individual performed services in the new employment. Benefits relating to wage credits earned with the employer that the individual has left shall be charged to the unemployment compensation fund. This paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

871 IAC 24.28(5) provides:

Voluntary quit requalifications and previously adjudicated voluntary quit issues.

(5) The claimant shall be eligible for benefits even though the claimant voluntarily quit if the claimant left for the sole purpose of accepting an offer of other or better employment, which the claimant did accept, and from which the claimant is separated, before or after having started the new employment.

The claimant left her employment in order to accept other employment with InPlay and did perform services for the subsequent employer. Accordingly, benefits are allowed and the employer's account shall not be charged.

DECISION:

The unemployment insurance decision dated December 4, 2007, reference 03, is modified in favor of the appellant. The claimant voluntarily left her employment in order to accept other employment. Benefits are allowed, provided the claimant is otherwise eligible. The employer's account shall not be charged.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/kjw