

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ROBYN L SEBETKA
Claimant

APPEAL NO. 08A-UI-00312-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

EASTWYNN THEATRES INC
Employer

OC: 11/25/07 R: 03
Claimant: Appellant (2)

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated January 3, 2008, reference 03, that concluded she voluntarily quit employment without good cause attributable to the employer. A telephone hearing was held on January 24, 2008. The parties were properly notified about the hearing. The claimant participated in the hearing. Donald Glueck participated in the hearing on behalf of the employer.

ISSUE:

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

FINDINGS OF FACT:

The claimant worked for the employer as a cashier/concession worker at the employer's Carmike 7 Theater location in Cedar Rapids, Iowa, from August 1999 to November 29, 2007. The theater manager was aware that the claimant did not drive due to a medical condition and walked to work from her apartment, which was a short distance from the theater.

In November 2007, the employer notified all the employees of the Carmike Theater in Cedar Rapids that the theater would be closing November 29, 2007. On November 26, 2007, the theater manager informed employees that they could transfer to the employer's other theater, Wynnsong 12 Theater, which is located about 12 miles from the claimant's home.

Since the claimant does not drive and she could not walk to work, she had to check into alternative means of transportation. The bus system in Cedar Rapids does not run after 6:00 p.m. and she could not find anyone to pick her up if she worked after 6:00 p.m., which was a shift she often worked. She informed the employer that she could not transfer to the Wynnsong 12 Theater. The claimant worked for the employer until the theater closed on November 29, 2007.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant voluntarily quit employment without good cause attributable to the employer. Although the claimant insists she did not quit, the employer continued to have employment in her same job but at a different location. She decided not to accept a transfer to the other theater, which means she quit working for 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 24.26(20) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(20) The claimant left work voluntarily rather than accept a transfer to another locality that would have caused a considerable personal hardship.

The claimant left work with good cause attributable to the employer. The employer made it necessary for her to transfer to a different location 12 miles from her residence. She made a reasonable effort to find transportation to the other theater, but it is clear that the transfer involved a substantial change in the terms of her employment due to the change in the work location and would have required considerable personal hardship to accept the transfer.

DECISION:

The unemployment insurance decision dated January 3, 2008, reference 03, is reversed. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/pjs