

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BENJAMIN P MYERS
Claimant

APPEAL NO. 07A-UI-11037-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

DU BEST PIZZA INC
DOMINOS PIZZA
Employer

OC: 10/29/07 R: 0 4
Claimant: Appellant (4)

Section 96.5(1) – Quit

STATEMENT OF THE CASE:

The claimant, Benjamin Myers, filed an appeal from a decision dated November 26, 2007, reference 11. The decision disqualified him from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on December 12, 2007. The claimant participated on his own behalf. The employer, Dominos Pizza, participated by Shift Manager Elicia Hennings and Office Manager Debra Lockhart.

ISSUE:

The issue is whether the claimant quit work with good cause attributable to the employer.

FINDINGS OF FACT:

Benjamin Myers was employed by Du Best Pizza as a part-time delivery driver from September 17 through 24, 2007. He was a no-call/no-show to work on September 24, 2007, and Shift Manager Elicia Hennings attempted to call him and find out why he was not at work. The claimant's girlfriend answered the phone and said the job was "not working out" and that Mr. Myers was quitting. He was not making enough money to pay for the gas to do the deliveries, but he was being paid the amount he was promised when he was hired. More money had been expected from tips than he had been receiving.

REASONING AND CONCLUSIONS OF LAW:

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 24.27 provides:

Voluntary quit of part-time employment and requalification. An individual who voluntarily quits without good cause part-time employment and has not requalified for benefits following the voluntary quit of part-time employment, yet is otherwise monetarily eligible for benefits based on wages paid by the regular or other base period employers, shall not be disqualified for voluntarily quitting the part-time employment. The individual and the part-time employer which was voluntarily quit shall be notified on the Form 65-5323 or 60-0186, Unemployment Insurance Decision, that benefit payments shall not be made which are based on the wages paid by the part-time employer and benefit charges shall not be assessed against the part-time employer's account; however, once the individual has met the requalification requirements following the voluntary quit without good cause of the part-time employer, the wages paid in the part-time employment shall be available for benefit payment purposes. For benefit charging purposes and as determined by the applicable requalification requirements, the wages paid by the part-time employer shall be transferred to the balancing account.

The claimant quit his part-time employment because he was not making as much money as he had anticipated, although his wages and gas allotment were paid as agreed. This is not good cause attributable to the employer for quitting.

As this was a part-time job, and he has not requalified, he may still be eligible for benefits provided there are sufficient wages in his base period and he is otherwise not disqualified.

DECISION:

The representative's decision of November 26, 2007, reference 11, is modified in favor of the appellant. Benjamin Myers is qualified for benefits provided he is otherwise monetarily eligible with base period wages and is not disqualified as a result of any other separation.

The account of Du Best Pizza shall not be charged with benefits paid to the claimant.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/css