

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LUCINDA M MOORE
Claimant

APPEAL NO. 06A-UI-10841-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

JACK'S BAR & GRILL
Employer

OC: 11/03/06 R: 03
Claimant: Appellant (1)

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Lucinda Moore (claimant) appealed a representative's November 3, 2006 decision (reference 04) that concluded she was not eligible to receive unemployment insurance benefits because she had voluntarily quit employment with Jack's Bar & Grill (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on November 28, 2006. The claimant participated personally. The employer participated by Peggy Stewart, Owner/Operating Manager, and Troy Rugger, Bartender.

ISSUE:

The issue is whether the claimant voluntarily quit work without good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on April 14, 2006, as a part-time cook. The claimant started work every day at 8:30 a.m. and worked until she completed her work. Sometimes the claimant left work early for medical appointments. She generally averaged 30 hours per week. When the claimant complained about not earning enough money the employer offered the claimant hours working a split shift. The claimant worked the split shift hours a few times but then stopped doing so. The claimant completed her shift on July 18, 2006. She did not return to work after that day because she was not getting enough hours.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant voluntarily quit work 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(18) 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:

- (18) The claimant left because of a dislike of the shift worked.

A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980). The claimant's intention to voluntarily leave work was evidenced by her words and actions. She stopped appearing for work. When an employee quits work because she is dissatisfied with her hours, her leaving is without good cause attributable to the employer. The claimant left work because she wanted to work more hours. Her leaving was without good cause attributable to the employer. The claimant voluntarily quit without good cause attributable to the employer. Benefits are denied.

DECISION:

The representative's November 3, 2006 decision (reference 04) is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are denied.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/pjs