

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DAVID M VANDERLINDEN JR
Claimant

APPEAL NO. 11A-UI-07564-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

BELLE/SIOUX CITY RIVERBOAT
Employer

**OC: 05/08/11
Claimant: Appellant (4)**

Section 96.5(1) – Quit

STATEMENT OF THE CASE:

The claimant, David Vanderlinden, Jr., filed an appeal from a decision dated June 7, 2011, reference 01. The decision disqualified him from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on July 6, 2011. The claimant participated on his own behalf.

The employer, Belle of Sioux City, provided a telephone number to the Appeals Section. That number was dialed at 1:00 p.m. and the only response was a voice mail. A message was left indicating the hearing would proceed without the employer's participation unless a witness contacted the Appeals Section prior to the close of the record. By the time the record was closed at 1:10 p.m., the employer had not responded to the message and did not participate in the hearing or request a postponement of the hearing as required by the hearing notice.

ISSUE:

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

FINDINGS OF FACT:

David Vanderlinden, Jr. was employed by Belle of Sioux City from August 18 until November 21, 2010 as a part-time table games dealer. He gave a verbal resignation and two-week notice on November 12, 2010, to Supervisor Bob LaCroix. The two of them agreed his last day of work would be the shift that would end at 5:00 a.m. on November 21, 2010, and Mr. Vanderlinden worked through that date.

The reason for the resignation was that the claimant was currently enrolled in school under Division-Approved Training through Iowa Workforce Development and he needed to devote more time to his studies.

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 in order to devote more time to his studies. This does not constitute good cause attributable to the employer for quitting. However, as this was only part-time employment, Mr. Vanderlinden may still be qualified for benefits, provided he has sufficient earnings in his base period after the wage credits from this employer are removed.

DECISION:

The representative's decision of June 7, 2011, reference 01, is modified in favor of the appellant. David Vanderlinden is qualified for benefits, provided he has sufficient earnings in his base period after the removal of wage credits from this employer.

The account of Belle of Sioux City shall not be charged with benefits paid to the claimant.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/kjw