

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ANDREW K ARBORE
Claimant

BARK'S PIZZA INC
Employer

APPEAL 20A-UI-11104-J1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 3/22/20
Claimant: Appellant (2)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

On September 10, 2020, the claimant filed an appeal from the August 31, 2020, (reference 01) unemployment insurance decision that denied benefits based on voluntary quit. The parties were properly notified about the hearing. A telephone hearing was held on October 28, 2020. Claimant participated and Tina Arbore was called as a witness. Employer participated through Kim Bryant, General Manager.

ISSUE:

Did claimant quit employment with good cause attributable to the employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for employer on October 26, 2018. Claimant last worked as a part-time cook. Claimant was separated from employment on February 23, 2020, when claimant informed Ms. Bryant at the end of his shift that he was resigning immediately, as he had obtained a new and better job. Claimant testified that he was offered a job that paid more and allowed him to learn more and other cooking skills. Claimant did work for the new employer. Claimant was subsequently laid off from his new job due to the Covid-19 pandemic.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant voluntarily quit to accept other and better employment. Benefits are allowed provided claimant is otherwise eligible.

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 Page 2 Appeal 20A-UI-08041-AW-T 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.

Iowa Admin. Code r. 871-23.43(5) provides:

(5) Sole purpose. 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. No charge shall accrue to the account of the former voluntarily quit employer.

Even though the separation was without good cause attributable to employer and would, standing alone, disqualify claimant from receiving benefits, claimant did quit in order to accept other employment and performed services for the subsequent employer. Therefore, benefits are allowed and employer's account shall not be charged.

DECISION:

Regular Unemployment Insurance Benefits Under State Law

The August 31, 2020, (reference 01) unemployment insurance decision is reversed. Benefits are payable, provided claimant is otherwise eligible. The employer's account shall not be charged.



James F. Elliott
Administrative Law Judge

October 30, 2020
Decision Dated and Mailed

je/sam