

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BERNADETTE J WHITE
Claimant

APPEAL NO. 10A-UI-15756-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

EXP II DAYTONA'S INC
Employer

**OC: 08/15/10
Claimant: Appellant (2)**

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated November 3, 2010, reference 01, that concluded she voluntarily quit employment without good cause attributable to the employer. A telephone hearing was held on December 30, 2010. The parties were properly notified about the hearing. The claimant participated in the hearing. No one 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 as a server for the employer from May 3, 2009, to August 5, 2010. Aga Valderrama was her supervisor.

The claimant became upset after Valderrama directed insulting profanity toward the claimant and threw a pen in her direction. The pen did not hit the claimant but was thrown hard enough that it bounced off the wall. This was done in the presence of employees and customers. After this happened, the claimant became emotionally distressed and told Valderrama that she needed to leave the restaurant to get composed. She was told that she would need to sign a paper stating that she had voluntarily quit. The claimant would not sign the paper. The bartender then approached the claimant. He said she should get her stuff and he would walk her out the back door. The claimant never returned to the restaurant because she felt Valderrama was mistreating her and wanted her to quit.

REASONING AND CONCLUSIONS OF LAW:

The unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer or who are discharged for work-connected misconduct. Iowa Code § 96.5-1 and 96.5-2-a.

Based on the evidence, I conclude the claimant quit employment. She was never told by a supervisor that she was fired. She had no evidence that Valderrama had anything to do with the bartender escorting her out.

Nevertheless, I conclude the claimant had good cause attributable to the employer to leave employment based on Valderrama's intolerable treatment of her.

DECISION:

The unemployment insurance decision dated November 3, 2010, reference 01, 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