

**IN THE IOWA ADMINISTRATIVE HEARINGS DIVISION  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**JASMINA SABIC**  
Claimant

**APPEAL NO. 24A-UI-03228-JT-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**FOUR EAST DINING LLC**  
Employer

**OC: 02/18/24**  
**Claimant: Appellant (1)**

Iowa Code Section 96.5(1) – Voluntary Quit

**STATEMENT OF THE CASE:**

On March 22, 2024, Jasmina Sabic (claimant) filed a timely appeal from the March 13, 2024 (reference 01) decision that disqualified her for benefits and that held the employer's account would not be charged for benefits, based on the deputy's conclusion the claimant voluntarily quit on February 22, 2024 without good cause attributable to the employer. After due notice was issued, a hearing commenced on April 16, 2024 and concluded on April 17, 2024. Ms. Sabic participated. Kristina Miller represented the employer and presented additional testimony through Shaylin Girsch. Exhibits 1 through 43 and A were received into evidence.

**ISSUES:**

Whether the claimant was laid off, was discharged for misconduct in connection with the employment, or voluntarily quit without good cause attributable to the employer.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds:

Jasmina Sabic was employed by Four East Dining, L.L.C. as the full-time General Manager of Newton's Paradise Café in Waterloo. Ms. Sabic began her employment in 2020 and last performed work for the employer on February 22, 2024. Throughout the employment, Kristina Miller, Director of Operations for parent company Four East Dining, L.L.C. was Ms. Sabic's immediate supervisor. In addition to her other restaurant management duties, Ms. Sabic was responsible for recruiting, hiring, training, supervising, and discharging staff. Under Ms. Sabic's management of the employer's restaurant, the employer could not keep the restaurant fully staffed in the kitchen or in the dining room, was chronically understaffed in both areas, and at the end was desperately understaffed. Under Ms. Sabic's management of the employer's restaurant, the employer was forced to cut back hours of operation and to intermittently close the restaurant due to a lack of staff.

On Sunday, February 18, 2024, the chaotic and dysfunctional dynamics in the restaurant included a new kitchen employee behaving in an offensive and uncivil manner toward other

staff, the new kitchen employee walking out and subsequently reentering the restaurant, and Ms. Sabic refusing to allow the employee to return to the employment despite the extreme staff shortage. Ms. Sabic was subsequently off work for a few days due to a medical issue, during which time Ms. Miller operated the restaurant. The kitchen employee at the center of the dysfunction on February 18, 2024 contacted Ms. Miller and requested to return to the employment. Ms. Miller considered the dire staffing situation and elected to allow the employee to return to the employment. On the evening of February 21, 2024, Ms. Miller sent an email message explaining her decision to allow the kitchen employee to return to the employment. Ms. Sabic found this situation unacceptable and intolerable. Ms. Sabic sent an email response to Ms. Miller in which she asserted that she was the General Manager and that the employee was not going to get his job back. Ms. Sabic told Ms. Miller, "If you Have a problem with that, you can let me go."

On the morning of February 22, 2024, Ms. Miller went to the restaurant to discuss the email exchange with Ms. Sabic. Ms. Miller had reviewed video surveillance concerning the Sunday shift and had interviewed other employees who had been present during the shift. Ms. Miller concluded the events on the Sunday did not go as Ms. Miller had previously presented them. Ms. Miller concluded that Ms. Sabic had contributed significantly to the problem on the Sunday. On the morning of February 22, 2024, Ms. Sabic arrived at the restaurant at a time when Ms. Miller had stepped away to her nearby office. When Ms. Sabic arrived, other employees told Ms. Sabic that Ms. Miller had been at the restaurant to meet with Ms. Sabic. Ms. Sabic contacted Ms. Miller and Ms. Miller returned for a meeting with Ms. Sabic in the manager's office. When Ms. Sabic told Ms. Miller she was not going to rehire the kitchen employee, Ms. Miller told Ms. Sabic that she was not asking but instructing Ms. Sabic to rehire the kitchen employee. At that time, Ms. Sabic gathered her belongings and went downstairs to the main floor of the restaurant. Ms. Miller followed. In an indication that Ms. Sabic was quitting the employment, Ms. Sabic apprised Ms. Miller of various restaurant matters that needed to be attended to. Ms. Sabic then directed Ms. Miller to mail her final check, along with Ms. Sabic's son's final check, and her son's girlfriend's final check. Ms. Sabic then left the restaurant and did not return.

## **REASONING AND CONCLUSIONS OF LAW:**

Iowa Code section 96.5(1) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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.

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 698, 612 (Iowa 1980) and *Peck v. EAB*, 492 N.W.2d 438 (Iowa App. 1992). 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. See 871 IAC 24.25.

Quits due to intolerable or detrimental working conditions are deemed to be for good cause attributable to the employer. See Iowa Admin. Code r. 87124.26(4). The test is whether a reasonable person would have quit under the circumstances. See *Aalbers v. Iowa Department of Job Service*, 431 N.W.2d 330 (Iowa 1988) and *O'Brien v. Employment Appeal Bd.*,

494 N.W.2d 660 (1993). Aside from quits based on medical reasons, prior notification of the employer before a resignation for intolerable or detrimental working conditions is not required. See *Hy-Vee v. EAB*, 710 N.W.2d 1 (Iowa 2005).

On the other hand, quits due to dissatisfaction with the work environment, due to a personality conflict with a supervisor, due to an inability to work with others, or a departure in lieu of performing work duties as directed are each presumed to be without good cause attributable to the employer. See Iowa Admin. Code rule 87124.25(6), (21), (22) and (27).

The weight of the evidence in the record establishes a February 22, 2024 voluntary quit without good cause attributable to the employer. The weight of the evidence establishes that Ms. Sabic, as General Manager, contributed significantly to the dysfunctional, poorly managed restaurant operations that left the employer in a dire staffing shortage. It was within the established pattern of mismanagement of the employer's restaurant that Ms. Miller, who was Ms. Sabic's supervisor and Director of Operations for the parent company, was compelled to overrule Ms. Sabic's decision not to allow the kitchen employee to continue in the employment. Under the particular circumstances, the evidence fails to establish either intolerable or detrimental working conditions that would have prompted a reasonable person in Ms. Sabic's position to leave the employment. Ms. Sabic elected to voluntarily quit in response to being overruled by her supervisor regarding a business decision, due to dissatisfaction with that relationship with the supervisor at that moment, and because she did not wish to comply with the employer's directive. Under the circumstances, the employer's directive was not unreasonable as a stop-gap measure to keep the restaurant operational. The claimant is disqualified for benefits until the claimant has worked in and been paid wages for insured work equal to 10 times the claimant's weekly benefit amount. The claimant must meet all other eligibility requirements. The employer's account shall not be charged for benefits.

**DECISION:**

The March 13, 2024 (reference 01) decision is AFFIRMED. The claimant voluntarily quit the employment on February 22, 2024 without good cause attributable to the employer. The claimant is disqualified for benefits until the claimant has worked in and been paid wages for insured work equal to 10 times the claimant's weekly benefit amount. The claimant must meet all other eligibility requirements. The employer's account shall not be charged.



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James E. Timberland  
Administrative Law Judge

April 24, 2024  
Decision Dated and Mailed

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**APPEAL RIGHTS.** If you disagree with the decision, you or any interested party may:

1. Appeal to the Employment Appeal Board within fifteen (15) days of the date under the judge's signature by submitting a written appeal via mail, fax, or online to:

**Employment Appeal Board  
6200 Park Ave Suite 100  
Des Moines, Iowa 50321  
Fax: (515)281-7191  
Online: eab.iowa.gov**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

**AN APPEAL TO THE BOARD SHALL STATE CLEARLY:**

- 1) The name, address, and social security number of the claimant.
- 2) A reference to the decision from which the appeal is taken.
- 3) That an appeal from such decision is being made and such appeal is signed.
- 4) The grounds upon which such appeal is based.

An Employment Appeal Board decision is final agency action. If a party disagrees with the Employment Appeal Board decision, they may then file a petition for judicial review in district court.

2. If no one files an appeal of the judge's decision with the Employment Appeal Board within fifteen (15) days, the decision becomes final agency action, and you have the option to file a petition for judicial review in District Court within thirty (30) days after the decision becomes final. Additional information on how to file a petition can be found at Iowa Code §17A.19, which is online at <https://www.legis.iowa.gov/docs/code/17A.19.pdf>.

**Note to Parties:** YOU MAY REPRESENT yourself in the appeal or obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds.

**Note to Claimant:** It is important that you file your weekly claim as directed, while this appeal is pending, to protect your continuing right to benefits.

**SERVICE INFORMATION:**

A true and correct copy of this decision was mailed to each of the parties listed.

**DERECHOS DE APELACIÓN.** Si no está de acuerdo con la decisión, usted o cualquier parte interesada puede:

1. Apelar a la Junta de Apelaciones de Empleo dentro de los quince (15) días de la fecha bajo la firma del juez presentando una apelación por escrito por correo, fax o en línea a:

**Employment Appeal Board  
6200 Park Ave Suite 100  
Des Moines, Iowa 50321  
Fax: (515)281-7191  
Online: [eab.iowa.gov](http://eab.iowa.gov)**

El período de apelación se extenderá hasta el siguiente día hábil si el último día para apelar cae en fin de semana o día feriado legal.

**UNA APELACIÓN A LA JUNTA DEBE ESTABLECER CLARAMENTE:**

- 1) El nombre, dirección y número de seguro social del reclamante.
- 2) Una referencia a la decisión de la que se toma la apelación.
- 3) Que se interponga recurso de apelación contra tal decisión y se firme dicho recurso.
- 4) Los fundamentos en que se funda dicho recurso.

Una decisión de la Junta de Apelaciones de Empleo es una acción final de la agencia. Si una de las partes no está de acuerdo con la decisión de la Junta de Apelación de Empleo, puede presentar una petición de revisión judicial en el tribunal de distrito.

2. Si nadie presenta una apelación de la decisión del juez ante la Junta de Apelaciones Laborales dentro de los quince (15) días, la decisión se convierte en acción final de la agencia y usted tiene la opción de presentar una petición de revisión judicial en el Tribunal de Distrito dentro de los treinta (30) días después de que la decisión adquiriera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que está en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf>.

**Nota para las partes:** USTED PUEDE REPRESENTARSE en la apelación u obtener un abogado u otra parte interesada para que lo haga, siempre que no haya gastos para Workforce Development. Si desea ser representado por un abogado, puede obtener los servicios de un abogado privado o uno cuyos servicios se paguen con fondos públicos.

**Nota para el reclamante:** es importante que presente su reclamo semanal según las instrucciones, mientras esta apelación está pendiente, para proteger su derecho continuo a los beneficios.

**SERVICIO DE INFORMACIÓN:**

Se envió por correo una copia fiel y correcta de esta decisión a cada una de las partes enumeradas.