

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TINA L THOMPSON
Claimant

APPEAL NO. 07A-UI-04302-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

METRO FOOD & DRINK LC
Employer

**OC: 04/01/07 R: 02
Claimant: Appellant (1)**

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated April 24, 2007, reference 02, that concluded she voluntarily quit employment without good cause attributable to the employer. A telephone hearing was held on May 14, 2007. The parties were properly notified about the hearing. The claimant participated in the hearing. Lori Frost participated in the hearing on behalf of the employer with a witness, Charlie Kepner. Exhibits One and Two were admitted into evidence at the hearing.

ISSUE:

Did the claimant voluntarily quit employment without good cause attributable to the employer?

FINDINGS OF FACT:

The claimant worked for the employer as a banquet manager for the employer from September 11, 2006, to March 30, 2007. The restaurant manager was Charlie Kepner.

On March 30, 2007, the claimant reported to work at 9:00 a.m., which was 30 minutes late for work. The kitchen manager told her that she was late and the rolls were supposed to be out at 8:30 a.m. A short time later, Kepner approached the claimant with a written warning for unsatisfactory work performance based on her not properly cleaning the banquet room or resetting properly for the next banquet.

The claimant refused to sign the warning. Kepner told the claimant that she had to sign the warning or face the consequences. The claimant then went to the time clock and clocked out to leave. The kitchen manager told her that she could not do that. The claimant responded, "yes I can" and left work.

The next day, the claimant called the restaurant to talk to another manager, Mike DeVries. She told him that she wanted to talk to him. DeVries responded, "about what?" There was nothing else said because the claimant decided that management was against her. The only other contact the claimant had with the employer was to drop off in a written statement about what had happened to corporate headquarters.

The claimant voluntarily quit employment because she was upset about being given the written warning about her job performance and having to sign it.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant voluntarily quit employment 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(28) 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:

- (28) The claimant left after being reprimanded.

The findings of fact show how I resolved the disputed factual issues in this case by carefully assessing of the credibility of the witnesses and reliability of the evidence and by applying the proper standard and burden of proof. Kepner testified credibly that he told the claimant that she had to sign the warning or face the consequences. He did not discharge her. Instead, she decided to leave work rather than sign the warning that she disagreed with. She never returned to work. She called DeVries and assumed based on his response to her request to talk to him that there was no use talking to anyone about her employment status.

The claimant quit employment after being required to sign a written warning about her job performance. The employer was well within its rights to discipline the claimant for unsatisfactory work performance. The reason the claimant quit employment does not meet the standard of good cause attributable to the employer.

DECISION:

The unemployment insurance decision dated April 24, 2007, reference 02, is affirmed. The claimant is disqualified from receiving unemployment insurance benefits until she has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/css