

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

KRISTIN A PRESTON
Claimant

PEOPLEREADY INC
Employer

APPEAL 17A-UI-07738-DL-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 07/17/17
Claimant: Respondent (4R)

Iowa Code § 96.5(2)a – Discharge for Misconduct
Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The employer filed an appeal from the July 21, 2017, (reference 02) unemployment insurance decision that allowed benefits based upon a discharge from employment. The parties were properly notified about the hearing. A telephone hearing was held on August 15, 2017. Claimant participated. Employer participated through branch manager Julia Topps.

ISSUES:

Did claimant voluntarily leave the employment with good cause attributable to the employer or did employer discharge the claimant for reasons related to job misconduct sufficient to warrant a denial of benefits?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant is employed as an on-call concession stand worker depending on the event schedule. Her last day of work was April 11, 2017, when the parties stopped communicating. She has no other wages in the base period. The issue of whether claimant is considered unemployed due to her base-period wages consisting solely of on-call work, has not yet been addressed by the Benefits Bureau of IWD.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant has not been separated from work.

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.

Iowa Code section 96.5(2)a provides:

Causes for disqualification.

An individual shall be disqualified for benefits:

2. *Discharge for misconduct.* If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:

a. The individual shall be disqualified for benefits until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

Because claimant still considered an employee, albeit inactive, there has been no separation and the unemployment insurance decision is moot. Still remaining as issues are claimant's availability for work and whether she is considered unemployed due to her history of on-call wages.

DECISION:

The July 21, 2017, (reference 02) unemployment insurance decision is modified in favor of the appellant. The claimant is still employed. The undetermined issues are her availability for work since June 11, 2017 (within the July 17, 2016 claim year) and whether she is considered partially or fully unemployed due to her current base period history of on-call wages.

REMAND: The availability for work and on-call employment wage history issues as delineated in the findings of fact are remanded to the Benefits Bureau of Iowa Workforce Development for determination.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/rvs

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<http://www.iowaworkforce.org/ui/uiemployers.htm> and

http://www.youtube.com/watch?v=_mpCM8FGQoY