IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS

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

SHIRLEY A LAMBERTUS
Claimant

RIVERSIDE CASINO AND GOLF RESORT
Employer

APPEAL NO. 07A-UI-06594-SWT

ADMINISTRATIVE LAW JUDGE DECISION

OC: 06/03/07 R: 03
Claimant: Appellant (1)

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated June 26, 2007, reference 02, that concluded she voluntarily quit employment without good cause attributable to the employer. A telephone hearing was held on July 19, 2007. The parties were properly notified about the hearing. The claimant participated in the hearing. Kris Bridges participated in the hearing on behalf of the employer with witnesses, Larry Harryman and Kevin Helfgott.

ISSUE:

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

FINDINGS OF FACT:

The claimant worked full time for the employer from August 14, 2006, to May 31, 2007. Prior to working for the employer, the claimant worked at Prairie Meadows with her live-in boyfriend, Randy Simmons. She and Simmons were recruited by Kevin Helfgott, the employer's poker room manager who had worked with them at Prairie Meadows. Larry Harryman is the director of table games.

The employer opened for business in August 2006. Before being hired, the claimant had conversations with Helfgott and Harryman in July 2006. She asked whether the fact that she and Simmons were living together would create any problems with them being hired. Helfgott and Harryman both stated that it would not be a problem.

The claimant and Simmons were hired to work as poker room supervisors, but they worked on different shifts. The claimant started working on the dayshift, and Simmons on the graveyard shift.

When the claimant began work on August 14, 2006, she received the employee handbook that contains a work rule regarding fraternization. The work rule prohibits a supervisor and an employee reporting to a supervisor from dating or having a relationship beyond basic friendship. The work rule states individuals in such relationships will only be hired if they are not working in the same department. Under the work rule, employees are required to notify their director and

the human resources director if such a relationship exists and are subject to discipline for concealing such a relationship. The work rule provides that the company reserves the right on a case-by-case basis to transfer employees to separate individuals involved in such relationships or to terminate their employment. The claimant acknowledged receipt of the handbook on August 14 and understood the fraternization rule.

In February 2007, a manager noticed that the contact information for the claimant and Simmons was the same. He questioned the claimant about whether she and Simmons were living together. The claimant denied this and falsely represented that the contact information for Simmons was inaccurate.

Effective March 1, 2007, the claimant stepped down from her position as a supervisor and accepted a position as a poker dealer. She was assigned to work in the poker room on the same shift that Simmons supervised. Neither the claimant nor Simmons advised their director or the human resources director about their relationship even though Simmons was involved in directly supervising the claimant.

In late May 2007, an employee reported to management that the claimant and Simmons were live-in girlfriend and boyfriend. Helfgott informed the claimant that she was not permitted to work with Simmons as her supervisor. She was given three choices. First, she could transfer to another shift where she would not be directly supervised by Simmons and continue to work as a poker dealer (or Simmons could change shifts). Second, she could be trained to work with different table game so that Simmons would not be supervising her. Third, she could take a position that did not involve a table game.

On May 31, 2007, the claimant informed Helfgott that she was quitting employment as none of the choices were acceptable to her. Kris Bridges, the human resources business partner, talked to the claimant and covered the same choices. She specifically told the claimant that there was an opening for a retail supervisor, which would have paid about $12.00 per hour. Bridges specifically asked the claimant about the conversation with the manager in February 2007, and the claimant admitted that she had been untruthful.

After speaking to Bridges, the claimant still decided to quit her employment. She did not want to change shifts. Training for another table game required her to be off work without pay for approximately three weeks. Accepting the retail supervisor position would have involved a substantial reduction in her pay from approximately $18.00 an hour to $12.00 per hour. She did not think she was being treated fairly since she had been assured before she was hired that her relationship with Simmons would not affect her employment.

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.

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. I believe that before the claimant was hired Helfgott and Harryman that they knew she and Simmons were in a relationship and living together. They have a great motivation not to remember the conversations that took place before the claimant and Simmons were hired considering the fact that they hired the claimant and Simmons but did not insist on their working in separate departments. I do not think it changes the result in this case. The claimant knew when she got the handbook on August 14, 2006, what the employer's express policy was and the obligations she had to her employer to disclose their relationship. This is obvious when she attempted to conceal the relationship to the manager in February 2007.

She and Simmons went even further when the claimant transferred to a shift where her boyfriend was her direct supervisor without disclosing the conflict to her director and the human resources department. Once a complaint was made and the claimant and Simmons acknowledged the relationship, the employer did not discharge them as was permitted under the policy but instead attempted to provide an accommodation that would allow both of them to work. I believe the testimony of Helfgott and Bridges that they would have modified the schedule so that Simmons would not be directly supervising the claimant if she or Simmons would have agreed to change shifts. Neither Simmons nor the claimant had a guarantee regarding their work shift, and the work rules specifically allowed the employer to reassign employees to avoid violations of the policy against fraternization.

No good cause attributable to the employer has been proven in this case for the claimant to quit her employment, and she is disqualified under the unemployment insurance law.

DECISION:

The unemployment insurance decision dated June 26, 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.

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Steven A. Wise
Administrative Law Judge

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Decision Dated and Mailed

saw/css