

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**SCOTT A WYANT**  
Claimant

**APPEAL NO. 08A-UI-05532-H2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**K G B INC**  
**SUBWAY RESTAURANT**  
Employer

**OC: 07-01-07 R: 02**  
**Claimant: Appellant (4)**

Iowa Code § 96.5(1) – Voluntary Leaving  
871 IAC 24.27 – Voluntary Leaving Part Time Employment

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the June 4, 2008, reference 02, decision that denied benefits. After due notice was issued, a hearing was held on June 30, 2008. The claimant did participate. The employer did participate through Leanne Spencer, Manager.

**ISSUE:**

Did the claimant voluntarily quit his part time job without good cause attributable to the employer?

**FINDINGS OF FACT:**

Having reviewed the testimony and all of the evidence in the record, the administrative law judge finds: Claimant was employed as a closer, part-time, beginning April 8, 2008, through May 4, 2008, when he voluntarily quit.

The claimant quit because he did not like working alone. The claimant did not tell the employer when he was hired that he had work restrictions against lifting over 15 to 20 pounds. The employer did not require the claimant to perform any work duties that required he lift over 15 to 20 pounds. The claimant was hired to be a part-time worker, as only managers are hired as full-time employees. The claimant was guaranteed no set hours and during the four weeks he was an employee, he worked 27.75 hours for the week ending May 6; he worked 32.00 hours for the week ending April 15; he worked 25.75 hours for the week ending April 22; and he worked 32.75 hours for the week ending April 29.

The claimant was paid for all hours he worked, including those worked after 11:30 p.m. When the claimant told the employer he was quitting via a note he left, he wrote only that he was quitting because he did not want to close alone.

On the job application signed by the claimant, he indicated he had no work restrictions and that part-time work was acceptable to him.

The administrative record shows that the claimant has not requalified for benefits but is otherwise monetarily eligible.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left his employment without good cause attributable to the employer, but has not requalified and is otherwise monetarily eligible.

Iowa Code § 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 § 96.5-1-g 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. But the individual shall not be disqualified if the department finds that:

g. The individual left work voluntarily without good cause attributable to the employer under circumstances which did or would disqualify the individual for benefits, except as provided in paragraph "a" of this subsection but, subsequent to the leaving, the individual worked in and was paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

871 IAC 24.27 provides:

Voluntary quit of part-time employment and requalification. An individual who voluntarily quits without good cause part-time employment and has not requalified for benefits following the voluntary quit of part-time employment, yet is otherwise monetarily eligible for benefits based on wages paid by the regular or other base period employers, shall not be disqualified for voluntarily quitting the part-time employment. The individual and the part-time employer which was voluntarily quit shall be notified on the Form 65-5323 or 60-0186, Unemployment Insurance Decision, that benefit payments shall not be made which are based on the wages paid by the part-time employer and benefit charges shall not be assessed against the part-time employer's account; however, once the individual has met the requalification requirements following the voluntary quit without good cause of the part-time employer, the wages paid in the part-time employment shall be available for benefit payment purposes. For benefit charging purposes and as determined by the applicable requalification requirements, the wages paid by the part-time employer shall be transferred to the balancing account.

The claimant was paid for all hours worked. The employer did not require the claimant to violate any work restrictions. Inasmuch as the claimant quit because he did not want to work alone but was never guaranteed that he would not have to work alone, the separation is disqualifying. However, the claimant has not requalified for benefits since the separation and is otherwise

monetarily eligible according to base period wages. Benefits are allowed, provided the claimant is otherwise eligible.

**DECISION:**

The June 4, 2008, reference 02, decision is modified in favor of the appellant. The claimant voluntarily left the employment without good cause attributable to the employer and has not requalified for benefits but is otherwise monetarily eligible. Benefits are allowed, provided the claimant is otherwise eligible. The account of this employer shall not be charged.

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Teresa K. Hillary  
Administrative Law Judge

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Decision Dated and Mailed

tkh/kjw