

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JAMES L CLAPSADDLE
Claimant

APPEAL NO. 11A-UI-01412-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

**KLB BAUER INC
GASBY'S**
Employer

**OC: 12/26/10
Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Quit
871 IAC 24.25(26) – Full-Time Student
Section 96.4-3 – Able and Available
871 IAC 24.23(5) – Full-Time Student

STATEMENT OF THE CASE:

The claimant appealed a department decision dated January 25, 2011, reference 01, that held he voluntarily quit without good cause attributable to his employer on December 21, 2010, and that denied benefits. A telephone hearing was held on March 8, 2011. The claimant participated. Brett Bauer, owner/operator, participated for the employer. Employer Exhibits 1, 2, and 3 were received as evidence.

ISSUE:

Whether the claimant voluntarily quit without good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witnesses and having considered the evidence in the record, finds: The claimant was re-hired to work in the first week June 2010, and last worked for the employer as a full-time night cashier in late November. Claimant was off work due to a job-related ankle injury, but he had been released to return about December 20. Prior to returning to work, claimant e-mailed a letter of resignation to the employer on December 23 that he made effective December 21. Claimant stated he was going back to school in January 2011. Claimant did not go to school during the period he worked for the employer.

The employer had a meeting with employees that included claimant on December 13. Owner Bauer advised claimant his promotion to manager would be delayed due to his missing work, because he was not fully trained. Bauer did not believe claimant was prepared for the management position.

Claimant enrolled as a full-time student at Kirkwood Community College in late December for the spring semester beginning January 2011.

REASONING AND CONCLUSIONS OF LAW:

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(26) 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:

(26) The claimant left to go to school.

The administrative law judge concludes the claimant voluntarily quit without good cause attributable to his employer to become a full-time student based on his resignation effective December 21, 2010.

While the claimant was upset with the transition from cashier to manager, his resignation stated his reason for quitting was to go to school. The employer offered a good cause for delaying the position transition due to the claimant being off work for an injury.

Iowa Code section 96.4-3 provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in section 96.19, subsection 38, paragraph "b", unnumbered paragraph 1, or temporarily unemployed as defined in section 96.19, subsection 38, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

The administrative law judge further concludes that the claimant is not able and available for full-time work due to being a full-time student.

The claimant was not a full-time student while working for the employer, and he chose unemployment rather than working as a full-time cashier. The claimant has failed to establish he would be available for full-time employment while a full-time student.

DECISION:

The department decision dated January 25, 2011, reference 01, is affirmed. The claimant voluntarily quit without good cause attributable to his employer on December 21, 2010. The claimant is not able and available for full-time work. Benefits are denied until the claimant requalifies by working in and being paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/kjw