

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BONNIE POTTER

Claimant

APPEAL NO. 06A-UI-10720-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

HEARTLAND INNS OF AMERICA LLC

Employer

**OC: 10/08/06 R: 03
Claimant: Respondent (4)**

Section 96.5-1 – Voluntary Quit
871 IAC 24.27 - Voluntary Quit of Part-Time Employment

STATEMENT OF THE CASE:

Heartland Inns of America LLC (employer) appealed an unemployment insurance decision dated October 31, 2006, reference 01, which held that Bonnie Potter (claimant) was eligible for unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on November 27, 2006. The claimant participated in the hearing with Attorney Elizabeth Norris. The employer participated through Kristi Nosbisch, Human Resources Director; Debbie Bullion, General Manager; and Reida Burkett, Housekeeping Supervisor. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

The issue is whether the claimant's voluntary separation from her part-time employment qualifies her to receive unemployment insurance benefits.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was employed as a part-time housekeeper from August 8, 2006 through October 9, 2006 when she voluntarily quit. She felt the other housekeepers who spoke Spanish were making fun of her in Spanish. They would comment on how slow she was and she was tired of everyone saying she was slow. She complained that she only got ten rooms on October 8, 2006 but the reason she was given less rooms is because she was slow and the employer was trying to make it easier on her. The claimant did not talk to the employer about her complaints until the day she quit even though the employer has an open door policy and its managers are accessible at all times by cell phone. When she talked to the general manager on October 9, 2006, a meeting was scheduled for the following day to discuss things but the claimant opted not to attend.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the reasons for the claimant's separation from employment qualify her to receive unemployment insurance benefits. The claimant has the burden of proving that the voluntary quit was for a good reason that would not disqualify her. Iowa Code section 96.6-2.

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(6) 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:

(6) The claimant left as a result of an inability to work with other employees.

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 voluntarily quit because she did not like how she was treated by her co-workers. "Good cause" for leaving employment must be that which is reasonable to the average person, not to the overly sensitive individual or the claimant in particular. Uniweld Products v. Industrial Relations Commission, 277 So.2d 827 (Florida App. 1973). An employer cannot be responsible for its employees' personal feelings, particularly when an individual appears to be overly sensitive. The claimant's separation was without good cause so she is not eligible for benefits from this employer.

However, an individual who quits part-time employment without good cause, yet is otherwise monetarily eligible based on wages paid by other base-period employers, shall not be disqualified for voluntarily quitting the part-time employment. Benefit payments shall not be based on wages paid by the part-time employer and charges shall not be assessed against the part-time employer's account. Once the individual has met the requalification requirements, the wages paid from the part-time employment can be used for benefit payment purposes. 871 IAC 24.27.

In the case herein, the claimant is monetarily eligible based on another employer and the employer herein is not a base period employer. Therefore, her maximum weekly benefit amount does not need to be redetermined and she remains qualified for benefits provided she is otherwise eligible.

DECISION:

The unemployment insurance decision dated October 31, 2006, reference 01, is modified in favor of the appellant. The claimant voluntarily quit her part-time employment for disqualifying reasons. Therefore, the employer's account will not be charged. The claimant is monetarily eligible based on wages from another employer.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/cs