

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JONATHAN S MCCARL**  
Claimant

**APPEAL NO. 17A-UI-11342-S1-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CHICAGO SPEAKEASY LTD**  
Employer

**OC: 10/08/17**  
**Claimant: Appellant (2)**

Section 96.5-1 - Voluntary Quit

**STATEMENT OF THE CASE:**

Jonathan McCarl (claimant) appealed a representative's November 1, 2017, decision (reference 01) that concluded he was not eligible to receive unemployment insurance benefits because he voluntarily quit work with Chicago Speakeasy (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for November 22, 2017. The claimant participated personally. The employer participated by Julie Moore, General Manager.

**ISSUE:**

The issue is whether the claimant was separated from employment for any disqualifying reason.

**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 hired in March of 2017, as a part-time server. The claimant felt the restaurant was not as clean as he would have liked and was concerned by this. He discussed his concerns with the employer.

Around the end of September 2017, the ceiling of the kitchen leaked when it rained. The water dripped into the plated food in the kitchen. The owner told the claimant he would fix the problem. On October 6, 2017, it rained again and the owner set up buckets to collect the water near the plated food. The water splashed onto the food. The servers were expected to serve the food to the customers. The claimant complained to the owner and the owner said if it got worse he would take care of it. On October 7, 2017, the claimant sent the employer a text saying he quit due to the intolerable working conditions of working in a place where contaminated food was being served to customers.

**REASONING AND CONCLUSIONS OF LAW:**

For the following reasons the administrative law judge concludes the claimant voluntarily quit work with good cause attributable to the employer.

Iowa Code § 96.5-1 provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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 Admin. Code r. 871-24.26(4) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(4) The claimant left due to intolerable or detrimental working conditions.

The law presumes a claimant has left employment with good cause when he quits because of intolerable or detrimental working conditions. 871 IAC 24.26(4). The claimant notified the employer of the ceiling water leaking into the restaurant food. The employer wanted the claimant to continue serving contaminated food. The claimant subsequently quit due to those conditions. The claimant is eligible to receive unemployment insurance benefits, provided he meets all the qualifications.

The claimant's and the employer's testimony is inconsistent. The administrative law judge finds the claimant's testimony to be more credible because he was an eye witness to the events. The employer could have provided eye-witness testimony but did not.

**DECISION:**

The representative's November 1, 2017, decision (reference 01) is reversed. The claimant voluntarily quit with good cause attributable to the employer. Benefits are allowed, provided claimant is otherwise eligible.

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Beth A. Scheetz  
Administrative Law Judge

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Decision Dated and Mailed

bas/scn