

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JOEL D SIGEL**  
Claimant

**APPEAL NO. 07A-UI-06584-S2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**KWIK TRIP INC**  
Employer

**OC: 03/18/07 R: 04  
Claimant: Appellant (4)**

Section 96.5-1 - Voluntary Quit  
96.4-3 – Able and Available

**STATEMENT OF THE CASE:**

Joel Sigel (claimant) appealed a representative's June 27, 2007 decision (reference 03) that concluded he was not eligible to receive unemployment insurance benefits because he had voluntarily quit employment with Kwik Trip (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on July 19, 2007. The claimant participated personally. The employer participated by Bambi Blaess, Store Leader.

**ISSUE:**

The issue is whether the claimant voluntarily quit work without good cause attributable to the employer and whether the claimant is available for work.

**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 on March 5, 2007, as a part-time cashier. The claimant's shift leader put his hands on the claimant and threatened to stab him with a knife. The claimant did not return to work after June 12, 2007. On June 16, 2007, the claimant went to Chicago, Illinois, to meet with a culinary school. He moved to Chicago, Illinois, on June 21, 2007. He became a full-time student on July 9, 2007. Continued work was available had the claimant not resigned.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow the administrative law judge concludes the claimant voluntarily quit work with 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.

871 IAC 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 Iowa Supreme Court has stated that a notice of intent to quit is not required when the employee quits due to intolerable or detrimental working conditions. Hy-vee, Inc. v. Employment Appeal Board and Diyonda L. Avant, (No. 86/04-0762) (Iowa Sup. Ct. November 18, 2005). The claimant notified the employer of the situation. The claimant subsequently quit due to those conditions. The claimant is eligible to receive unemployment insurance benefits.

The next issue is whether the claimant was able and available for work. For the following reasons the administrative law judge concludes he is not.

871 IAC 24.23(5), (25) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(5) Full-time students devoting the major portion of their time and efforts to their studies are deemed to have no reasonable expectancy of securing employment except if the students are available to the same degree and to the same extent as they accrued wage credits they will meet the eligibility requirements of the law.

(25) If the claimant is out of town for personal reasons for the major portion of the workweek and is not in the labor market.

The claimant was out of town and then became a full-time student as of July 9, 2007. When a claimant is out of town or becomes a full-time student devoting the majority of their time to their studies, the claimant is deemed to not be available for work. The claimant is disqualified from receiving unemployment insurance benefits because he is not available for work as of June 21, 2007.

**DECISION:**

The representative's June 27, 2007 decision (reference 03) is modified in favor of the appellant. The claimant voluntarily left work with good cause attributable to the employer. Benefits are allowed. The claimant is disqualified from receiving unemployment insurance benefits because he is not available for work as of June 21, 2007.

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Beth A. Scheetz  
Administrative Law Judge

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Decision Dated and Mailed

bas/pjs