

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JULIE A JOHNSON
Claimant

APPEAL NO. 16A-UI-09034-TN-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

V F W CLUB
Employer

OC: 07/24/16
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed a timely appeal from a representative's decision dated August 9, 2016, reference 01, which denied unemployment insurance benefits finding the claimant voluntarily quit work on February 13, 2016 for personal reasons. After due notice was provided, a telephone hearing was held on September 7, 2016. Claimant participated. The employer participated by Ms. Lisa Fluhr, Bar Manager.

ISSUE:

The issue is whether the claimant left employment with good cause attributable to the employer.

FINDINGS OF FACT:

Having considered the evidence in the record, the administrative law judge finds: Julie Johnson was employed by the V F W Club beginning in September 2015. Ms. Johnson worked as a part-time bartender until February 13, 2016 when she voluntarily quit employment. Ms. Johnson was paid \$8.25 per hour. Claimant's supervisors were Ms. Fluhr, the bar manager, and the claimant also reported to the Post Commander.

Ms. Johnson left her employment with the V F W Club located at 1406 Commercial Street, Waterloo, Iowa for a number of reasons. The claimant's primary reason for leaving was because the Post had hired another part-time bartender at a higher rate per hour than Ms. Johnson was currently receiving.

Although the Post Commander and bar manager explained to Ms. Johnson that the newly hired bartender had numerous years of bartending experience and, therefore, was being paid more per hour, Ms. Johnson, nonetheless, felt that it was because of favoritism. The newly hired part-time bartender was related by marriage to the Post Commander.

Ms. Johnson also had concerns about her safety when she closed the bar at night and was dissatisfied because her request to have her working hours on Saturday reduced had been denied.

At the time Ms. Johnson was hired, she was informed that the position she was being hired into was the Saturday bartender position that required her to work from noon until closing. Ms. Johnson accepted that condition of employment. Ms. Johnson was also aware that the position she accepted required her to work from noon until close on Saturdays.

REASONING AND CONCLUSIONS OF LAW:

The question before the administrative law judge is whether the evidence in the record establishes that the claimant left employment with good cause attributable to the employer. It does not.

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 Admin. Code r. 871-24.25(21) 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:

(21) The claimant left because of dissatisfaction with the work environment.

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.

An individual who leaves employment voluntarily is disqualified from receiving job insurance benefits unless the quit was for good cause attributable to the employer. Iowa Code section 96.5(1). The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code section 96.6(2). The facts establish that the claimant understood and accepted the terms of employment when hired that required her to work from noon until closing on Saturdays although an employee who is closing the facility can have a personal friend or friends present when he or she closes the facility. The employer had not agreed to add extra personnel at the time of closing and had not provided extra personnel for other bartenders who are similarly situated. Because there was no change in the agreement of hire regarding these aspects of Ms. Johnson's employment, these reasons do not constitute good cause reasons attributable to the employer.

The claimant's primary reason for leaving employment was her dissatisfaction with the fact that a new part-time bartender had been hired and was being paid at a higher rate of pay than Ms. Johnson was receiving at the time. When Ms. Johnson made an inquiry, the employer was reasonable and explained the basis for the decision to pay the new part-time bartender at the higher rate per hour. The bartender had numerous years of previous experience which the employer believed would be beneficial to the Post.

While Ms. Johnson's reasons for leaving employment were undoubtedly good cause reasons from her personal viewpoint, the evidence does not establish that they were good cause reasons that were attributable to the employer. Accordingly, the claimant is disqualified for unemployment insurance benefits until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount and is otherwise eligible.

DECISION:

The representative's decision dated August 9, 2016, reference 01, is affirmed. The claimant voluntarily left employment without good cause attributable to the employer. Unemployment insurance benefits are withheld until the claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount and is otherwise eligible.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs