

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

NANCY R ACKLEY
Claimant

APPEAL NO. 07A-UI-09704-MT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MCSOIFER'S INC
Employer

**OC: 09/23/07 R: 02
Claimant: Appellant (2)**

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated October 16, 2007, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on October 31, 2007. Claimant participated personally. Employer participated by Sam Soifer, Owner, Scott Soifer, Restaurant Manager and Jodi Betsinger, Assistant Manger. Exhibit A was admitted into evidence.

ISSUE:

The issue in this matter is whether claimant quit for good cause attributable to employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on September 21, 2007. Claimant on September 21, 2007 quit because claimant found a new job. The new job was a better rate of pay. Claimant started and worked at the new job.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge holds that the evidence has failed to establish that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship because of new and better employment. This is not a quit for cause attributable to employer. However, leaving for and working at better employment does in fact qualify claimant for benefits. Employer's account shall not be charged for benefits paid.

Iowa Code section 96.5-1-a 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. But the individual shall not be disqualified if the department finds that:

a. The individual left employment in good faith for the sole purpose of accepting other or better employment, which the individual did accept, and the individual performed services in the new employment. Benefits relating to wage credits earned with the employer that the individual has left shall be charged to the unemployment compensation fund. This paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

871 IAC 24.28(5) provides:

Voluntary quit requalifications and previously adjudicated voluntary quit issues.

(5) The claimant shall be eligible for benefits even though the claimant voluntarily quit if the claimant left for the sole purpose of accepting an offer of other or better employment, which the claimant did accept, and from which the claimant is separated, before or after having started the new employment.

DECISION:

The decision of the representative dated October 16, 2007, reference 01, is reversed. Claimant is eligible to receive unemployment insurance benefits, provided claimant meets all other eligibility requirements. Employer's account shall not be charged with benefits paid in this matter. Credits shall be transferred to the unemployment compensation fund.

Marlon Mormann
Administrative Law Judge

Decision Dated and Mailed

mdm/pjs