

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JENNIFER R BOCK**  
Claimant

**APPEAL NO. 11A-UI-12225-HT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**K&P ENTERTAINMENT INC**  
Employer

**OC: 06/26/11  
Claimant: Respondent (1)**

Section 96.5(2)a – Discharge  
Section 96.5(1) – Quit

**STATEMENT OF THE CASE:**

The employer, K&P Entertainment, Inc. (K&P), filed an appeal from a decision dated September 6, 2011, reference 02. The decision allowed benefits to the claimant, Jennifer Bock. After due notice was issued, a hearing was held by telephone conference call on October 13, 2011. The claimant participated on her own behalf. The employer participated by Owner Ken Harkins.

**ISSUE:**

The issue is whether the claimant quit work with good cause attributable to the employer or was discharged for misconduct sufficient to warrant a denial of unemployment benefits.

**FINDINGS OF FACT:**

Jennifer Bock was employed by K&P from August 9, 2010 until July 2, 2011 as a part-time bartender. At the end of her shift on June 25, 2011, Ms. Bock expressed some concerns and frustrations to Co-Owner Ken Harkins. She said she would have liked to give a two-week notice but was not going to quit until she had another job since employees who gave notice were usually not allowed to work out the notice period.

A day or so later another employee contacted Ms. Bock at the request of Polly, the other co-owner, to say all her hours for the next week had been covered. On July 2, 2011, the claimant called and spoke with Mr. Harkins to ask what her hours would be for the next week and he told her he believed her to have quit. She stated she wanted to continue working and he interpreted that to mean she wanted to be reinstated.

**REASONING AND CONCLUSIONS OF LAW:**

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.

Iowa Code section 96.5-2-a provides:

An individual shall be disqualified for benefits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:

a. The individual shall be disqualified for benefits until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

871 IAC 24.32(1)a provides:

Discharge for misconduct.

(1) Definition.

a. "Misconduct" is defined as a deliberate act or omission by a worker which constitutes a material breach of the duties and obligations arising out of such worker's contract of employment. Misconduct as the term is used in the disqualification provision as being limited to conduct evincing such willful or wanton disregard of an employer's interest as is found in deliberate violation or disregard of standards of behavior which the employer has the right to expect of employees, or in carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design, or to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. On the other hand mere inefficiency, unsatisfactory conduct, failure in good performance as the result of inability or incapacity, inadvertencies or ordinary negligence in isolated instances, or good faith errors in judgment or discretion are not to be deemed misconduct within the meaning of the statute.

The communication between the parties in this case was misunderstood by both claimant and employer. It is undisputed the claimant expressed displeasure about the work environment at the end of her shift on June 25, 2011, and she was subsequently taken off the schedule. But if the employer truly believed her to have quit then there would not have been any reason for her to be contacted and told her shifts had been covered for the coming week. This detail persuades the administrative law judge the claimant did not quit but it was the intention of the employer to discharge her.

The employer has failed to establish any substantial misconduct on the part of the claimant which precipitated the discharge. It has failed to meet its burden of proof and disqualification may not be imposed.

**DECISION:**

The representative's decision of September 6, 2011, reference 02, is affirmed. Jennifer Bock is qualified for benefits, provided she is otherwise eligible.

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Bonny G. Hendricksmeier  
Administrative Law Judge

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Decision Dated and Mailed

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