

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RICKY D NEASE
Claimant

APPEAL NO. 09A-UI-07216-VST

**ADMINISTRATIVE LAW JUDGE
DECISION**

BURGER KING CORPORATION
Employer

**Original Claim: 03/22/09
Claimant: Appellant (2)**

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

The claimant filed an appeal from a representative's decision dated May 7, 2009, reference 04, which held the claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on June 4, 2009. The claimant participated. The employer participated by Carla Volner, assistant manager. The record consists of the testimony of Ricky Nease, the testimony of Alice Nease, and the testimony of Carla Volner.

ISSUE:

Whether the claimant voluntarily left for good cause attributable to the employer

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witnesses and having considered all of the evidence in the record, makes the following findings of fact:

The claimant began his employment with Burger King on February 21, 2009. Initially, he worked on the closing crew. His hours were not set, but generally he worked four hours a night, three days a week. This was a part-time job.

The person who hired him, the general manager, then went on medical leave and scheduling was taken over by assistant managers. The claimant said he was moved to days and only worked one or two hours a week. He asked for his night hours back and was never given a reason why he could not go back to the closing crew. On April 6, 2009, the claimant quit his job.

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.

871 IAC 24.26(1) 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:

(1) A change in the contract of hire. An employer's willful breach of contract of hire shall not be a disqualifiable issue. This would include any change that would jeopardize the worker's safety, health or morals. The change of contract of hire must be substantial in nature and could involve changes in working hours, shifts, remuneration, location of employment, drastic modification in type of work, etc. Minor changes in a worker's routine on the job would not constitute a change of contract of hire.

The administrative law judge holds that the evidence has established that the claimant voluntarily quit for good cause attributable to employer when the claimant terminated the employment relationship because of a reduction in work hours. Although the claimant was only a part-time employee, the reduction from 12 hours per week down to 1 or 2 hours per week is significant. Although the employer testified that the claimant was scheduled for more hours than that, she herself did not do the scheduling, nor did she have any information on how many hours the claimant actually worked.

DECISION:

The representative's decision dated May 7, 2009, reference 04, is reversed. Unemployment insurance benefits are allowed, provided the claimant is otherwise eligible.

Vicki L. Seeck
Administrative Law Judge

Decision Dated and Mailed

vls/kjw