

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

SHEILA HOBBS
Claimant

APPEAL NO. 18A-UI-00345-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

R C CASINO LLC
Employer

OC: 12/17/17
Claimant: Respondent (1)

Section 96.5-1 - Voluntary Quit
Section 96.3-7 – Overpayment

STATEMENT OF THE CASE:

R. C. Casino (employer) appealed a representative's January 3, 2018, decision (reference 01) that concluded Sheila Hobbs (claimant) was eligible to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for January 31, 2018. The claimant participated personally. The employer participated by Jason True, Director of Human Resources. Exhibit D-1 was received into evidence. The employer offered and Exhibit 1 was received into evidence.

ISSUE:

The issue is whether the claimant was separated from employment for any disqualifying reason.

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 June 6, 2016, as a full-time buffet server. The claimant signed for receipt of the employer's handbook on June 6, 2016. The claimant was prescribed anti-seizure medication which she took on a regular basis. She needed a few minutes in the bathroom to swallow some pills. In the past, the employer always allowed her the time she needed.

The claimant's supervisor was Derek Dagostino. Mr. Dagostino was in a meeting with other supervisors in October 2017, where the claimant's personal information was discussed. After the meeting, Mr. Dagostino discussed the claimant's personal information with the claimant's co-workers. On October 23, 2017, the claimant discussed Mr. Dagostino's behavior with another supervisor. She suggested the claimant make a report to the human resources department. On October 25, 2017, the claimant reported the behavior to human resources. On or about October 27, 2017, Mr. Dagostino told the claimant and her co-workers he was reprimanded for talking about the claimant's personal information.

On October 28, 2017, the claimant asked Mr. Dagostino if she could go to the restroom and take her medication. He said, "No". He said that if she would provide him with a schedule of

the times she needed to take her medication, he would be sure to accommodate her. The claimant was frightened about what would happen if she did not take her medication and went to another supervisor. The other supervisor said he would look in the handbook and get back to her. In about forty-five minutes the other supervisor said that he could not find anything in the handbook about it. He did not give her permission to go to the restroom and take her medication. The other supervisor told Mr. Dagostino that he could not ask the claimant for a schedule of times she needed to take her medication.

The claimant continued to work without her medication. She became increasingly worried and thought Mr. Dagostino was retaliating against her for his reprimand. At 8:45 p.m. Mr. Dagostino told the claimant he was sending a co-worker home so the claimant could have an extra row of tables. At that time, the claimant knew she would have to leave in order to take her medication. Just after the claimant clocked out, the other supervisor appeared and talked to the claimant. She told him why she was leaving. The claimant did not return to work on October 29, 30 and 31, 2017, because she would have had to work with Mr. Dagostino without any other supervisor. She would not have been able to work and take her medication.

The claimant filed for unemployment insurance benefits with an effective date of December 27, 2017. The employer provided the name and number of Jason Teve as the person who would participate in the fact-finding interview on January 2, 2018. The fact finder called Mr. Teve but he was not available. The fact finder left a voice message with the fact finder's name, number, and the employer's appeal rights. The employer did not respond to the message. The employer did not provide any documents for the fact finding interview.

REASONING AND CONCLUSIONS OF LAW:

For the following reasons 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, regardless of the source of the individual's wage credits:

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. 871-24.26(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 she quits because of intolerable or detrimental working conditions. 871 IAC 24.26(4). It would be reasonable for the employee to inform the employer about the conditions the employee believes are intolerable or detrimental and to have the employee notify the employer that she intends to quit employment unless the conditions are corrected. This would allow the employer a chance to correct those conditions before a quit would occur. However, 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 repeatedly that she needed to take her medication. The employer would not allow her time to do this. She had no assurances she would be given time during future shifts. The claimant subsequently quit due to those conditions. The claimant is eligible to receive unemployment insurance benefits, provided she meets all the qualifications.

DECISION:

The representative's January 3, 2018, decision (reference 01) is affirmed. The claimant voluntarily quit with good cause attributable to the employer. Benefits are allowed, provided claimant is otherwise eligible.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/rvs