

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**TINA L CARR**  
Claimant

**APPEAL NO. 08A-UI-11562-CT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CHUCK & JO'S RESTAURANT**  
Employer

**OC: 10/12/08 R: 04**  
**Claimant: Respondent (3)**

Section 96.5(1)g – Voluntary Quit/Requalification

**STATEMENT OF THE CASE:**

Chuck & Jo's Restaurant filed an appeal from a representative's decision dated December 5, 2008, reference 06, which held that no disqualification would be imposed regarding Tina Carr's separation from employment. After due notice was issued, a hearing was held by telephone on December 23, 2008. The employer participated by Connie Jo Smith, Owner/Manager, and Donna Cain, Waitress. Exhibits One and Two were admitted on the employer's behalf.

Ms. Carr called on the morning of the hearing to request a postponement because she was traveling to Des Moines to spend Christmas with her grandmother. A voice message was left for her at 8:25 a.m. advising that the request was denied because it was not timely made. She was advised that she would be called at 10:00 a.m. for the hearing. The administrative law judge attempted to reach Ms. Carr at the scheduled time of the hearing at the telephone number she provided. A voice message was left for her at 10:01 but she did not call the Appeals Bureau in response to the message. For the above reasons, Ms. Carr did not participate in the hearing.

**ISSUE:**

At issue in this matter is whether Ms. Carr was separated from employment on February 12, 2008 for any disqualifying reason.

**FINDINGS OF FACT:**

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Carr began working for Chuck & Jo's Restaurant on September 18, 2007. She worked from 30 to 35 hours each week as a waitress. A note was left for her on February 12 telling her what duties she was to perform. She was to wrap silverware, portion the peanut butter, and portion the cinnamon. Ms. Carr worked for approximately one hour and then left.

During the one hour she was at work on February 12, Ms. Carr complained about having to roll the silverware. She stated she did not have to do the work and walked out. She had not complained about any work-related matters prior to quitting. Neither the owners nor other

workers had yelled at her or called her names. No one had thrown things at her. Continued work would have been available if she had not walked off the job.

Ms. Carr was rehired by Chuck & Jo's Restaurant on March 26, 2008. The second period of employment ended on July 27, 2008. Ms. Carr has earned at least ten times her weekly job insurance benefit amount between the time she left the employment on February 12, 2008 and when she filed her claim for job insurance benefits effective October 12, 2008.

#### **REASONING AND CONCLUSIONS OF LAW:**

Ms. Carr voluntarily quit work when she walked off the job on February 12, 2008. An individual who voluntarily quits employment is disqualified from receiving job insurance benefits unless the quit was for good cause attributable to the employer. Iowa Code section 96.5(1). Ms. Carr quit because she did not like to roll silverware. However, this task was a routine part of her job. It is not unreasonable to ask the wait staff to perform other, incidental duties during the course of the work shift. For the above reasons, the administrative law judge concludes that Ms. Carr's quit was not for good cause attributable to the employer. Because she returned to the employment in March of 2008, the administrative law judge is not inclined to believe she left on February 12 due to detrimental or intolerable working conditions.

Ms. Carr has requalified for benefits since the February 12, 2008 disqualifying separation. She earned at least ten times her weekly benefit amount in insured wages between February 12 and October 12, 2008, when she filed her claim for benefits. A portion of her requalifying wages was earned in employment with Chuck & Jo's Restaurant from March 26 through July 27, 2008. Workforce Development has issued a decision dated December 5, 2008, reference 02, regarding the July 27 separation. The decision held that Ms. Carr quit voluntarily on that date but remained eligible for benefits based on other wage credits. The employer was relieved of benefit charges based on the July 27 separation. Based on the decision bearing reference 02 and the decision herein, the employer's account will not be charged for benefits paid to Ms. Carr because of either her February 12 or her July 27, 2008 separation.

#### **DECISION:**

The representative's decision dated December 5, 2008, reference 06, is hereby modified. Ms. Carr quit her employment on February 12, 2008 for no good cause attributable to the employer but had requalified for benefits prior to filing her claim. Benefits are allowed, provided she satisfies all other conditions of eligibility.

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Carolyn F. Coleman  
Administrative Law Judge

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Decision Dated and Mailed

cfc/kjw