

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CORIE S STAUB

Claimant

APPEAL NO: 11A-EUCU-00337-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

KSDH LLC

THE BLACK WATCH ROOM/PEBBLE CREEK

Employer

OC: 02/03/08

Claimant: Appellant (1)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

Corie S. Staub (claimant) appealed a representative's March 22, 2011 decision (reference 04) that concluded she was not qualified to receive unemployment insurance benefits after a separation from employment from KSDH, L.L.C. / The Black Watch Room / Pebble Creek (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on April 20, 2011. The claimant participated in the hearing. Kelly Schone appeared on the employer's behalf. Based on the evidence, the arguments of the parties, a review of the law, and assessing the credibility of the witnesses and reliability of the evidence in conjunction with the applicable burden of proof, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the claimant voluntarily quit for a good cause attributable to the employer?

FINDINGS OF FACT:

The claimant started working for the employer on May 11, 2010. She worked part time (approximately 15 – 20 hours per week) as a bartender and occasional server at the employer's restaurant and bar, usually on weekend nights. Her last day of work was December 1, 2010, a week night shift she had picked up from another server.

The claimant arrived shortly before the scheduled start of her shift and clocked in at about 4:55 p.m. She passed the office of Ms. Schone, the manager, and noted that Ms. Schone was inside, busy. Ms. Schone called out a greeting, but the claimant did not respond; the claimant may not have heard the greeting. Ms. Schone perceived that the claimant was not speaking to her.

The claimant went about her duties in the bar and kitchen areas. Ms. Schone approached the claimant and expressed her concerns about the claimant not greeting her when she arrived for work. While the claimant may not have intentionally ignored Ms. Schone's greeting when she arrived, she also expressed to Ms. Schone that she did not feel an obligation to greet

Ms. Schone when she arrived for work, that all that was needed was for her to report and start performing her duties. Ms. Schone became further upset by the claimant's attitude, which had been a point of concern in the past. She expressed her concern to the claimant by saying that the claimant was immature and disrespectful, that she needed to grow up and be responsible. She may have stated that the claimant had a "s - - -ty f - - - ing" attitude. The claimant believed that Ms. Schone had told the claimant to "leave her d - - - business"; however, Ms. Schone did not say that, although she acknowledged that she may have said that the claimant could either choose to abide by the employer's expectations or if not, she could leave.

The claimant went back into the kitchen area and commented to the cook that she was angry at Ms. Schone and was going to leave. About that time, Ms. Schone seated two guests and went back to tell the claimant she had a table. The claimant did not respond, but walked past Ms. Schone, got her coat, went out to her car, and left.

REASONING AND CONCLUSIONS OF LAW:

If the claimant voluntarily quit her employment, she is not eligible for unemployment insurance benefits unless it was for good cause attributable to the employer. Iowa Code § 96.5-1.

Rule 871 IAC 24.25 provides that, in general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. A voluntary leaving of employment requires an intention to terminate the employment relationship and an action to carry out that intent. Bartelt v. Employment Appeal Board, 494 N.W.2d 684 (Iowa 1993); Wills v. Employment Appeal Board, 447 N.W.2d 137, 138 (Iowa 1989). The claimant did express or exhibit the intent to cease working for the employer and did act to carry it out. The claimant would be disqualified for unemployment insurance benefits unless she voluntarily quit for good cause.

The claimant has the burden of proving that the voluntary quit was for a good cause that would not disqualify her. Iowa Code § 96.6-2. The claimant has the burden of proving that the voluntary quit was for a good cause that would not disqualify her. Iowa Code § 96.6-2. Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3), (4). Leaving because of a dissatisfaction with the work environment or a personality conflict with a supervisor is not good cause. 871 IAC 24.25(21), (22). Quitting because a reprimand has been given is not good cause. 871 IAC 24.25(28). While the claimant's work situation was perhaps not ideal, she has not provided sufficient evidence to conclude that a reasonable person would find the employer's work environment detrimental or intolerable. O'Brien v. Employment Appeal Board, 494 N.W.2d 660 (Iowa 1993); Uniweld Products v. Industrial Relations Commission, 277 So.2d 827 (FL App. 1973). Her complaints do not surpass the ordinary tribulations of the workplace. The claimant has not satisfied her burden. Benefits are denied.

DECISION:

The representative's March 22, 2011 decision (reference 04) is affirmed. The claimant voluntarily left her employment without good cause attributable to the employer. As of December 1, 2010, benefits are withheld until such time as the claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/pjs