

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KIMBERLI D BETTS

Claimant

APPEAL NO: 12A-UI-11933-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

IMON COMMUNICATIONS

Employer

OC: 09/09/12

Claimant: Appellant (4/R)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

Kimberli D. Betts (claimant) appealed a representative's September 27, 2012 decision (reference 01) that concluded she was not qualified to receive unemployment insurance benefits after a separation from employment from Imon Communications (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on October 30, 2012. The claimant participated in the hearing. Nick Knepper appeared on the employer's behalf and presented testimony from one other witness, Chelsey McDill. One other witness, Ben Detweiler, was available on behalf of the employer but did not testify. Based on the evidence, the arguments of the parties, and the law, 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 disqualifying reason?

OUTCOME:

Modified. Benefits allowed; employer's account relieved of charge.

FINDINGS OF FACT:

The claimant started working for the employer on September 4, 2007. She worked full-time as a customer care representative in the employer's call center. Her last day of work was September 8, 2012. She voluntarily quit as of that date, having given notice of her intent to quit on or about August 20.

The claimant has been enrolled in culinary school to become a chef for several years, but until the fall semester 2012 she had been able to work her work schedule around her school schedule so that she was able to continue working full-time (35 – 40 hours per week) with the employer. With the 2012 fall semester, the claimant was going to have a hands on practicum at the school in addition to her classes, so it was going to become much more difficult to be able to get in the necessary number of hours with the employer and to remain focused on her work with

the employer, even if she took some vacation or personal hours to make up some of her normal work hours. As a result, in early August she began seeking other employment.

On August 17 the claimant was offered a job as a line cook at a local restaurant. On August 20 the claimant gave notice of her resignation to the employer and accepted the job offer with the restaurant. Her start date with the new employer was delayed until after her last day of work with the employer, so she started that new employment on September 13. Her new employment is about 20 to 25 hours per week. It does not appear that the claimant has requested or been granted Department Approved Training (DAT) status.

REASONING AND CONCLUSIONS OF LAW:

If the claimant voluntarily quit her employment, she is not eligible for unemployment insurance benefits unless it was for a non-disqualifying reason. Iowa Code § 96.5-1. One reason a voluntary quit is non-disqualifying is if an employee quits for the reason of accepting and entering into new employment. Iowa Code § 96.5-1-a. However, under these circumstances, the employer's account is also not subject to charge.

The claimant did voluntarily quit in order accept a bona fide offer of other employment. The claimant is not disqualified from receiving benefits as a result of her quit from the employer in this case, but the employer's account will not be charged.

An issue as to whether the claimant is adequately able and available for work arose during the hearing. This issue was not included in the notice of hearing for this case, and the case will be remanded for an investigation and preliminary determination on that issue. 871 IAC 26.14(5).

DECISION:

The representative's September 27, 2012 decision (reference 01) is modified in favor of the claimant. The claimant voluntarily left her employment, but the quit was not disqualifying. The claimant is eligible for unemployment insurance benefits, provided she is otherwise eligible. The employer's account will not be charged. The matter is remanded to the Claims Section for investigation and determination of the able and available issue.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/kjw