

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**TYLER MOLYNEUX**  
Claimant

**APPEAL NO: 09A-UI-00819-BT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**APEX FITNESS AT WEST DES MOINES LLC**  
Employer

**OC: 12/14/08 R: 12  
Claimant: Appellant (1)**

Iowa Code § 96.5-1 - Voluntary Quit

**STATEMENT OF THE CASE:**

Tyler Molyneux (claimant) appealed an unemployment insurance decision dated January 13, 2009, reference 02, which held that he was not eligible for unemployment insurance benefits because he voluntarily quit his employment with Apex Fitness at West Des Moines, LLC (employer) without good cause attributable to the employer. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on February 4, 2009. The claimant participated in the hearing. The employer participated through co-owner Mark Thoma. 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:**

The issue is whether the claimant's voluntary separation from employment qualifies him to receive unemployment insurance benefits.

**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 employed as a full-time front desk clerk from March 30, 2007 through December 7, 2008. He had previously given notice to quit effective December 28, 2008 because he was moving to Arizona. The claimant quit early after he learned that his girlfriend slept with one of the owners. He did not work with this owner on a regular basis. The incident occurred in October 2008 but the claimant did not learn about it until December 7, 2008.

**REASONING AND CONCLUSIONS OF LAW:**

The issue is whether the claimant's voluntary separation from employment qualifies him to receive unemployment insurance benefits. He is not qualified to receive unemployment insurance benefits if he voluntarily quit without good cause attributable to the employer. Iowa Code § 96.5-1.

The claimant resigned effectively December 28, 2008 to move but left early on December 7, 2008 because he learned his girlfriend slept with one of the owners. The law presumes it is a quit without good cause attributable to the employer when an employee leaves to move to a different locality. 871 IAC 24.225(2). Consequently, the claimant is not eligible for unemployment insurance benefits as of December 28, 2008, which is the date he planned on leaving. The remaining issue then is whether the claimant would be entitled to benefits for the three-week period from December 7, 2008 through December 27, 2008. Although the claimant is rightly offended that one of the owners slept with his girlfriend, it has nothing to do with his employment. He did not work with this particular owner and the other owner could have arranged it so that the claimant never saw the offending owner. The claimant testified that this owner did have a previous relationship with his girlfriend prior to when he became involved with her. The other owner also testified that the claimant and his girlfriend were not openly dating. Regardless of the particular details, the matter is personal in nature.

It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify him. Iowa Code § 96.6-2. He has not satisfied that burden and benefits are denied as of December 13, 2008.

**DECISION:**

The unemployment insurance decision dated January 13, 2009, reference 02, is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until he has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

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Susan D. Ackerman  
Administrative Law Judge

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Decision Dated and Mailed

sda/pjs