

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KIM C BERNS
Claimant

APPEAL NO: 08A-UI-08164-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

PEEP'S STOP LLC
Employer

**OC: 08/03/08 R: 02
Claimant: Appellant (2)**

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Kim C. Berns (claimant) appealed a representative's September 3, 2008 decision (reference 01) that concluded she was not qualified to receive benefits, and the account of Peep's Stop LLC (employer) would not be charged because the claimant voluntarily quit her employment for reasons that do not qualify her to receive benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on September 29, 2008. The claimant participated in the hearing. Sheila Sievers was present, but decided the employer did not want to contest or participate in the hearing. Based on the evidence, the arguments of the claimant, 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 her employment for reasons that qualify her to receive benefits?

FINDINGS OF FACT:

The claimant started working for the employer in June 2004. The claimant worked as a full time manager. She worked during the day, Monday through Friday.

The claimant went on vacation July 28 and was to return on August 4, 2008. On July 30, the employer talked to the claimant and told her that when she returned from vacation the employer would try to find her hours to work. The employer explained that when she returned from vacation, the claimant would be working nights and weekends. The claimant indicated the change in hours she worked and the possible reduction in hours was not acceptable and quit.

The claimant later learned the employer had hired another full-time employee. The claimant did not understand what she had done to cause the change in her hours of work.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quits employment without good cause attributable to the employer. Iowa Code section 96.5-1. The

claimant quit when she declined to work nights and weekends. When a claimant quits, she has the burden to establish she quit for reasons that qualify her to receive benefits. Iowa Code section 96.6-2.

The law presumes a claimant voluntarily quits employment with good cause when she leaves because of a substantial change in the employment. 871 IAC 24.26(1). The claimant had been working full-time hours during the day, Monday through Friday. Changing her hours to nights and weekends with no guarantee she would be working at least 40 hours a week constitutes a substantial change in her employment. Therefore, the claimant established good cause for quitting and is qualified to receive benefits.

DECISION:

The representative's September 3, 2008 decision (reference 01) is reversed. The claimant voluntarily quit her employment for reasons that qualify her to receive benefits. As of August 3, 2008, the claimant is qualified to receive benefits, provided she meets all other eligibility requirements. The employer's account may be charged for benefits paid to the claimant.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs