

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

FARRAH N STUDT
Claimant

APPEAL NO. 08A-UI-08224-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**HOLLY'S INC
NANCY'S BAR & GRILL**
Employer

**OC: 08/17/08 R: 03
Claimant: Appellant (1)**

Iowa Code Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Farrah Studt filed a timely appeal from the September 10, 2008, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on September 30, 2008. Ms. Studt participated. Virgil Hanson, owner, represented the employer and presented additional testimony through bartender Tammy Robidoux and cook Patty Neal.

ISSUE:

Whether Ms. Studt's voluntary quit was for good cause attributable to the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Farrah Studt started working at Nancy's Bar & Grill in April 2007 as a part-time tender. During the employment, Ms. Studt became a full-time employee and worked as a bartender and waitress. Ms. Studt was a full-time employee for several months before she voluntarily quit on August 18, 2008. Virgil Hanson owns Nancy's Bar & Grill and functioned as Ms. Studt's supervisor. Ms. Studt had a personality conflict with Mr. Hanson. Each thought the other was driving away customers. Ms. Studt alleges that Mr. Hanson was harassing and verbally abusive. Ms. Studt makes additional allegations about the employer. Ms. Studt is unable to provide details to support her allegations or refer to specific events that factored into her voluntary quit. Mr. Hanson made two long-term employees available for the hearing: bartender Tammy Robidoux and cook Patty Neal. Each has been with the employer for approximately a decade. Both were present on Ms. Studt's last day and witnessed Ms. Studt get mad, announce her quit, and hand her keys to Mr. Hanson. Both confirm that Ms. Studt was rude to customers, who would call to see whether Ms. Studt was bartending before coming to the bar and grill. Three such phone calls were received on the last day of Ms. Studt's employment.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5-1 provides:

An individual shall be disqualified for benefits:

1. Voluntary quitting. If the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department.

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 698, 612 (Iowa 1980) and Peck v. EAB, 492 N.W.2d 438 (Iowa App. 1992). 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. See 871 IAC 24.25.

Quits due to intolerable or detrimental working conditions are deemed to be for good cause attributable to the employer. See 871 IAC 24.26(4). The test is whether a reasonable person would have quit under the circumstances. See Aalbers v. Iowa Department of Job Service, 431 N.W.2d 330 (Iowa 1988) and O'Brien v. Employment Appeal Bd., 494 N.W.2d 660 (1993). Aside from quits based on medical reasons, prior notification of the employer before a resignation for intolerable or detrimental working conditions is not required. See Hy-Vee v. EAB, 710 N.W.2d (Iowa 2005).

Where a person voluntarily quits the employment due to a personality conflict with a supervisor or due to dissatisfaction with the work environment, the quit is presumed to be without good cause attributable to the employer. See 871 IAC 24.25(22) and (21).

The evidence in the record fails to establish intolerable or detrimental working conditions that would have prompted a reasonable person to quit the employment. Ms. Studt was unable to provide testimony to support her multiple allegations concerning the employer. Other employees did not share Ms. Studt's perception of the employer, but did share the employer's perception that Ms. Studt was difficult to get along with. The weight of the evidence indicates that Ms. Studt voluntarily quit in response to her personality conflict with the business owner and dissatisfaction with the work environment.

Ms. Studt voluntarily quit the employment without good cause attributable to the employer. Accordingly, Ms. Studt is disqualified for benefits until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. The employer's account shall not be charged for benefits paid to Ms. Studt.

DECISION:

The Agency representatives September 10, 2008, reference 01, decision is affirmed. The claimant voluntarily quit the employment without good cause attributable to the employer. The claimant is disqualified for benefits until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. The employer's account shall not be charged.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/pjs