

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DENISE S MICKLEWRIGHT**  
Claimant

**APPEAL NO. 12A-UI-00507-LT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**KIMBERLY CONCESSIONS INC**  
Employer

**OC: 11/13/11**  
**Claimant: Respondent (1-R)**

Iowa Code § 96.5(1) – Voluntary Leaving  
871 IAC 24.26(22) – Voluntary Leaving – Specific Period of Time

**STATEMENT OF THE CASE:**

The employer filed an appeal from the January 4, 2012 (reference 01) decision that allowed benefits. After due notice was issued, a hearing was held by telephone conference call on February 13, 2012. Claimant participated and was represented by Mike Bush, attorney at law. Employer Kimberly Concessions (Kimberly) participated through Owner Richard Giudici, Attendant Mary Ewen, and Manager Jason Ewen.

**ISSUE:**

Did the claimant voluntarily leave the employment with good cause attributable to the employer?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Micklewright was employed part-time (up to 30 hours per week) as a seasonal concession attendant at city golf course Emeis from April 1, 2011 and was separated from employment for the season on November 15, 2011. She filed her claim effective November 13, 2011. She had previously worked for the City of Davenport Parks and had normally been laid off at the end of the season and did not work winters.

The employer took over concessions for the city at the beginning of the 2011 season. Notices were placed in employees' paychecks on September 30 for job openings at the indoors ice rink River's Edge asking "Are you interested?" with check mark spaces for yes and no and space to indicate days and times available. The ice rink is about five miles from the golf course. Micklewright did not return one, because she was concerned about working late hours and safety downtown. River's Edge closes at 9:30 p.m. Employees do not work until midnight at that location. Micklewright did not respond to the notice even after she was last told on November 1 to fill out the sheet when she asked for more information about hours or days available at the ice rink. Jason Ewen did not tell Micklewright in November or December 2011 that the ice rink was fully staffed, as it was not so until after the first of the year. She did call Ewen asking why Kimberly was protesting her UI benefits.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant's separation was not the result of a disqualifying reason.

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.

871 IAC 24.26(22) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(22) The claimant was hired for a specific period of time and completed the contract of hire by working until this specific period of time had lapsed. However, this subrule shall not apply to substitute school employees who are subject to the provisions of Iowa Code section 96.4(5) which denies benefits that are based on service in an educational institution when the individual declines or refuses to accept a new contract or reasonable assurance of continued employment status. Under this circumstance, the substitute school employees shall be considered to have voluntarily quit employment.

Inasmuch as the claimant completed the season at the golf course as she had in past years, no disqualification is imposed.

**DECISION:**

The January 4, 2012 (reference 01), decision is affirmed. The claimant's separation from employment was for no disqualifying reason. Benefits are allowed, provided she is otherwise eligible.

**REMAND:**

The failure to apply for work issue delineated in the findings of fact is remanded to the Claims Section of Iowa Workforce Development for an initial investigation and determination.

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Dévon M. Lewis  
Administrative Law Judge

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Decision Dated and Mailed

dml/kjw