

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**TIFFANY MCCALLEY**  
Claimant

**APPEAL NO: 10A-UI-00511-ET**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**AMERICAN BLUE RIBBON HOLDINGS LLC**  
Employer

**OC: 11-15-09**  
**Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Leaving

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the January 5, 2010, reference 03, decision that denied benefits. After due notice was issued, a telephone hearing was held before Administrative Law Judge Julie Elder on February 17, 2010. The claimant participated in the hearing with former cook/witness, Christopher Eves. Darren Leonard, General Manager; Scott Robinson, Associate General Manager; Angel Vanderloo, Server; and Tom Kuiper, Employer Representative, participated in the hearing on behalf of the employer.

**ISSUE:**

The issue is whether the claimant voluntarily left her 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: The claimant was employed as a part-time shift supervisor/server/crew trainer for Village Inn from June 9, 2008 to November 25, 2009. Shift Supervisor Jasmine Forning was working as a hostess and the claimant asked her to announce the name of who was seated when she announced which table was seated and Ms. Forning said, "Don't start in with me." Later the claimant was outside smoking on her break when Server Angel Vanderloo came out. The claimant was "venting" about Ms. Forning and calling her names such as "bitch" when Ms. Forning came around the corner and told the claimant she needed to "grow up and act her age." Ms. Forning then told the claimant if she had a problem with her she should discuss it with her or management and not other employees and the claimant said, "Fuck you c\*\*t" and pointed her finger at Ms. Forning's face and said, "You are fucking done" and walked back into the building. The claimant went back inside and told Associate General Manager Scott Robinson, "I don't need this fucking shit anymore," punched out and left. She testified she walked out because it was a hostile work environment that day. She talked to Mr. Robinson on the phone later and offered to return but also mentioned getting an attorney and suing the employer so the employer did not feel it could talk to her further.

## **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left her employment without good cause attributable to the employer.

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 means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. 871 IAC 24.25. Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3),(4). Leaving because of dissatisfaction with the work environment is not good cause. 871 IAC 24.25(1). The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code section 96.6-2. The claimant testified that Ms. Forning made inappropriate and unprofessional personal comments to her outside on break but Ms. Vanderloo was present as well and did not hear Ms. Forning make the statements the claimant alleged during the hearing. The claimant, on the other hand, definitely used vile and inappropriate language toward Ms. Forning. Earlier the claimant was upset that Ms. Forning was not announcing whose tables were being sat when she came back to tell the servers there were new customers. She complained to General Manager Darren Leonard and he spoke to Ms. Forning but as an experienced server the claimant should know her section and what tables comprise her section so when a table is announced she would know whether or not it was her table. She later argued with Ms. Forning but has not demonstrated that her decision to walk out that day was due to unlawful, intolerable, or detrimental working conditions. It seems, rather, that she became upset with Ms. Forning and decided to leave, later rethinking her decision and calling the employer and offering to go back. If the working conditions were truly unlawful, intolerable, or detrimental it is unlikely the claimant would have been so willing to return, even if she did need her job. Under these circumstances, the administrative law judge concludes the claimant has not met her burden of proving her leaving was for good cause attributable to the employer. Therefore, benefits must be denied.

**DECISION:**

The January 5, 2010, reference 03, decision is affirmed. The claimant voluntarily left her employment without good cause attributable to the employer. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

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Julie Elder  
Administrative Law Judge

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Decision Dated and Mailed

je/css