

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

THALIA DUNN
809 E 27TH COURT
DES MOINES IA 50317

SIXTH AVENUE HOTEL PARTNERSHIP
c/o EMPLOYERS UNITY
PO BOX 749
ARVADA CO 80006

Appeal Number: 04A-UI-00969-ET
OC 01-04-04 R 02
Claimant: Appellant (1)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the January 27, 2004, reference 01, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on February 18, 2004. The claimant participated in the hearing. Tom Goodman, Director of Operations and Diana Logan, Director of Catering, participated in the hearing on behalf of 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 full-time banquet server for Sixth Avenue Hotel Partnership from February 2, 2001 to December 17, 2003. The claimant was upset because she had requested

more small carts so she could maneuver through the rooms more easily while catering. The employer ordered six of the smaller carts over the last year but all service personnel used the carts and the employer could not guarantee the claimant that a small cart would always be available for her use. On December 17, 2003, there were not enough small carts and the claimant asked Tom Goodman, Director of Operations, about getting a small cart to use during her shift that day and when he indicated they were all in use, the claimant went to the front desk, turned in her keys and stated, "I'm quitting and I'm not coming back."

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.

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 (amended 1998). 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(21). While the employer did not demonstrate much sensitivity to the claimant's concern about having a small cart available to make doing her job more efficient and convenient, the employer did order six additional carts and the administrative law judge cannot conclude that the lack of an available small cart constitutes good cause attributable to the employer for her leaving. Consequently, benefits must be denied.

DECISION:

The January 27, 2004, reference 01, 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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