

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MELISSA S SANKS

Claimant

APPEAL NO: 12A-UI-06483-S

**ADMINISTRATIVE LAW JUDGE
DECISION**

BARNES & NOBLE BOOKSELLERS INC

Employer

OC: 05/06/12

Claimant: Appellant (2)

Section 96.5-1 – Voluntary Quit
871 IAC 24.26(1) – Job Change

STATEMENT OF THE CASE:

The claimant appealed a department decision dated May 23, 2012, reference 01, that held she voluntarily quit employment without good cause attributable to the employer on April 27, 2012, and benefits are denied. A hearing was held in Cedar Rapids, Iowa on August 14, 2012. The claimant, and witnesses, Edward Sanks, husband, Shannon Fitzpatrick, employee, participated. The employer did not participate.

ISSUE:

The issue is whether the claimant voluntarily quit with good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge having heard the witness testimony and having considered the evidence in the record, finds: The claimant was hired by the employer as a part-time barista on February 1, 2009. She did work some full-time hours during the course of employment.

She interviewed for the lead café position and was offered the job. She began working a 30-day trial period on January 21, 2012. As a barista she was paid \$8.25 an-hour. The café manager told claimant she would receive a \$.75 raise to \$9.00 an hour as café lead. The lead position required claimant to perform substantial additional duties than what she had done as barista.

After claimant was told she satisfied the trial period, she asked about the raise. During the next several months she asked the café manager about the raise on five occasions. When she did not get it approved, she submitted a two-week resignation notice stating the raise issue is why she was leaving employment. The employer accepted the resignation and claimant last worked on April 27, 2012.

The employer failed to appear for the hearing.

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.

871 IAC 24.26(1) 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:

(1) A change in the contract of hire. An employer's willful breach of contract of hire shall not be a disqualifiable issue. This would include any change that would jeopardize the worker's safety, health or morals. The change of contract of hire must be substantial in nature and could involve changes in working hours, shifts, remuneration, location of employment, drastic modification in type of work, etc. Minor changes in a worker's routine on the job would not constitute a change of contract of hire.

The administrative law judge concludes that the claimant voluntarily quit employment with good cause attributable to the employer effective April 27, 2012 due to a substantial change in her job position where it failed to pay her a promised raise.

When claimant accepted the job change from barista to lead café, she relied on the employer café manager's statement she would receive a \$.75 an hour raise from her current pay of \$8.25 an hour. She satisfied the 30-day trial period for lead café, and the employer failed to provide claimant the promised raise. She made repeated efforts to receive the raise until April when she resigned for failing to get the raise that is a good cause for quitting employment. In effect the employer got more work from claimant in the lead position while paying her less at the former position rate.

DECISION:

The department decision dated May 23, 2012, reference 01, is reversed. The claimant voluntarily quit with good cause attributable to the employer on April 27, 2012. Benefits are allowed, provided the claimant is otherwise eligible.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/pjs