

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

---

**HILLARY J EDE**  
Claimant

**SPILLWAY SUPPER CLUB LLC**  
Employer

**APPEAL 14A-UI-11245-H2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 10/05/14  
Claimant: Appellant (2)**

---

Iowa Code § 96.5(1) – Voluntary Leaving  
871 IAC 24.26(4) – Intolerable Working Conditions

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the October 22, 2014 (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on November 18, 2014. Claimant participated. Employer participated through Herman Jones, Co-Owner. Claimant's Exhibit A was entered and received into the record.

**ISSUES:**

Did the claimant voluntarily quit her employment without good cause attributable to the employer?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full time as a cook beginning in September 2012 through October 4, 2014 when she voluntarily quit.

The claimant and Mr. Jones, the owner, are brother and sister. They have a personal and work relationship that involves each of them swearing at the other. The claimant does not use profanity when speaking to Mr. Jones while she is at work in front of the customers. On October 4 the claimant arrived at work to discover that the employee who worked the day before forgot to take the bacon out of the freezer. When Mr. Jones arrived during breakfast he was accompanied by one of their nieces. The claimant told Mr. Jones about the frozen bacon and he told her to "get your fat f\*\*\*ing ass back in the kitchen and keep cooking." The comment was made in front of four customers, one of whom submitted a written version of events that supports the claimant's version of events. The claimant went back into the kitchen. A few minutes later Mr. Jones stood up in the dining room and within hearing of the other customers yelled back at the claimant in the kitchen asking her if things were going any better. He also continued to repeat to the claimant that "she could be replaced." After he yelled at her and told her again that she could be replaced, the claimant had endured enough. She walked out of the kitchen, threw the key at Mr. Jones, and told him to go ahead and replace her. The claimant did not use any profanity when speaking to Mr. Jones in front of the customers that morning.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left the employment with good cause attributable to the employer.

Iowa Code § 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.

Iowa Admin. Code r. 871-24.26(4) 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:

(4) The claimant left due to intolerable or detrimental working conditions.

The law does not require a claimant endure intolerable treatment in the workplace because her employer is also her brother. The claimant established a repeated pattern on the part of Mr. Jones speaking to her using profanity and threatening her with replacement. It was completely logical that the claimant would tell the owner of the business about a situation (no bacon for breakfast) that would impact the business operations. Mr. Jones choice to use profanity and to yell at the claimant is repeated conduct that an employee would not be required to endure from an employer. Under these circumstances, that is Mr. Jones repeated threats and profanity toward her, the claimant has established an intolerable work environment which is good cause attributable to the employer for her leaving her employment. Benefits are allowed, provided the claimant is otherwise eligible.

**DECISION:**

The October 22, 2014 (reference 01) decision is reversed. The claimant voluntarily left her employment with good cause attributable to the employer. Benefits are allowed, provided the claimant is otherwise eligible.

---

Teresa K. Hillary  
Administrative Law Judge

---

Decision Dated and Mailed

tkh/can