

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

DOROTHY E SAGER
Claimant

TRISTAR VENTURES LLC
Employer

APPEAL NO. 17A-UI-10085-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 08/27/17
Claimant: Appellant (1)

Iowa Code § 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated September 28, 2017, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on October 17, 2017. Claimant participated. Employer participated by hearing representative Melissa Hill and witness Sarah Swayne. Claimant's Exhibits A-B were admitted into evidence.

ISSUE:

The issue in this matter is whether claimant quit for good cause attributable to employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on July 16, 2017. Claimant voluntarily quit her job on August 27, 2017.

Claimant worked as a part-time biscuit maker for employer, working approximately five hours per week on Sundays. Claimant had previously worked more hours per week, but in early 2017, she dropped other hours as she had another job.

In 2017, employer renovated the restaurant where claimant worked. Additionally, there was street construction outside of the restaurant decreasing the traffic at the restaurant. A third factor was employer was hiring a number of young, new employees over the summer.

Employer would post schedules and make them available for employees on Mondays. On July 7, 2017, employer sent a message to claimant telling her that she didn't need to work that Sunday (July 9). Claimant interpreted this to mean that she now didn't need to check in for her scheduling, and employer would contact her when she was to work. Because of the street work, and training new workers, claimant was scheduled to work one Sunday between July 16, 2017 and August 27, 2017. Claimant called off that Sunday as she went to Wisconsin Dells.

Claimant was scheduled to work August 27, 2017. Claimant hadn't called or stopped in to check her schedule as employer had only scheduled her once in six weeks. Employer did not contact claimant telling her she was scheduled. Claimant did not call or show for work on August 27, 2017. Employer texted claimant saying she was scheduled and didn't show. Claimant responded that she hadn't been working for over four weeks. Claimant then texted, "Do what you need to do.. I'll do what I need to do for me." Employer responded that it looks like you don't want to work here. And claimant responded, "K sounds fishy...". Employer said that you didn't show up for work and that shows you don't want to work. Claimant responded, "Have a nice day...god bless you." (Claimant's Ex. B).

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 96.5-1 provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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 administrative law judge holds that the evidence has failed to establish that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship because she decided not to continue working after employer questioned claimant's not coming in to work.

Claimant worked rather infrequently for employer working only five hours per week. Additionally, claimant took time off from this infrequent schedule. Employer did call up claimant on one occasion to ask if claimant would work. This did not establish a routine of employer calling claimant regarding her schedule. The employer did have a routine of posting the schedule on Mondays. Claimant knew of this routine. As claimant made the statement that she wasn't going to continue work, this is seen as a voluntary quit. This was not for good cause attributable to employer.

DECISION:

The decision of the representative dated September 28, 2017, reference 01, is affirmed. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.

Blair A. Bennett
Administrative Law Judge

Decision Dated and Mailed

bab/scn