

BEFORE THE  
EMPLOYMENT APPEAL BOARD  
Lucas State Office Building  
Fourth floor  
Des Moines, Iowa 50319

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**MICAELA C MARKWAY**

Claimant

and

**4 R'S TAVERN INC**

Employer

HEARING NUMBER: 17BUI-06033

EMPLOYMENT APPEAL BOARD  
DECISION

**SECTION:** 96.4-3,96.19-38A&B

**DECISION**

**FINDINGS OF FACT:**

The administrative law judge issued a decision July 5, 2017. The decision was favorable to the Claimant, and also to the part-time Employer. On August 21, 2017, the part-time Employer appealed the decision of the administrative law judge to the Employment Appeal Board.

**REASONING AND CONCLUSIONS OF LAW:**

Pursuant to 486 IAC 3.1(2), "[a]ny person aggrieved by a job service decision of an administrative law judge may appeal to the employment appeal board . . . ." The Employment Appeal Board interprets an aggrieved person to be one who receives an unfavorable decision from the administrative law judge. Here the decision of the administrative law judge is favorable to both parties in this instance. For this reason the part-time Employer's appeal must be and is dismissed, as the Claimant's partial unemployment resulted from her involuntary separation from her *full-time* Employer. See, Welch v. Iowa Department of Job Service, 421 N.W.2d 150 (Iowa App. 1988) wherein the court held that a total disqualification could only result from quitting the primary or regular (full-time) employer. To excuse a claimant's full-time employer from which the claimant was separated and not disqualified in the first place, would result in a windfall to that employer should the subsequent part-time employer be held liable for benefits after a claimant's subsequent separation.

**DECISION:**

The part-time Employer's appeal is **DISMISSED**. The decision of the administrative law judge remains in full force and effect. The Board would also note that this Employer's appeal was untimely.

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Kim D. Schmett

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Ashley R. Koopmans

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James M. Strohman

AMG/fnv