

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

BECKY FREEMAN
R R 1
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SOUTHERN IOWA GAMING COMPANY
LAKESIDE CASINO & RESORT
PO BOX 424
OSCEOLA IA 50213

Appeal Number: 04A-UI-04011-ET
OC 03-21-04 R 12
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 April 6, 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 May 3, 2004. The claimant participated in the hearing. Mary Ann Towsley, Human Resources Manager and Richard Grandieri, Slots Manager, 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 slot attendant for Lakeside Casino from July 8, 2002 to March 19, 2004. In December 2003, the claimant applied for a supervisory position but another

employee was hired for the job. The claimant was extremely upset because the person that was hired previously worked for another department but had only worked in the slots department 70 days and the claimant believed he was required to be in the department 90 days before he could transfer to a different job. The employer testified that rule applied to new employees but it has since rewritten the rule to clarify the policy. The claimant let the situation "get to her" and experienced stomach problems because she was so upset about the matter. On February 14, 2004, the claimant went to the emergency room because she was experiencing stomach pain and the doctor advised her to accept the situation at work. The claimant told her supervisors "things had to change" or she would look for another job but the employer was not willing to remove the employee hired for the job the claimant applied for and/or promote the claimant to that position. On March 19, 2004, the claimant walked off the job and the employer considered her to have voluntarily quit.

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.

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). 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). While the claimant was upset that another employee was hired for the job she applied for in December 2003, the employer's decision to hire the employee with the most supervisory experience was not unreasonable and although the claimant interpreted the policy to state the other employee was not eligible for that position, the policy she questioned was only applicable to new employees of the casino. The claimant did tell her supervisor about her concerns but short of transferring the employee it hired for the position and installing the claimant in the job there was nothing the employer could do to address the claimant's concerns to her satisfaction. Although the claimant's disappointment in not being selected for the promotion is understandable, her continuing reaction to the situation, including making herself ill and eventually quitting her job, is not. The claimant may have believed the situation was intolerable but her subjective opinion is not sufficient. The issue is whether, under an objective standard, sufficient evidence existed to conclude that a reasonable person would have believed that the situation was intolerable. See O'Brien v. Employment Appeal Board, 494 N.W. 2d 660 (Iowa 1983). The administrative law judge concludes the claimant has not demonstrated that her leaving was for good cause attributable to the employer. Consequently, benefits are denied.

DECISION:

The April 6, 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.

je/kjf