

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MICHELLE M KARDELL
Claimant

APPEAL NO: 11A-UI-07310-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

VAN ERT GLASS
Employer

OC: 05/31/11
Claimant: Respondent (4-R)

Section 96.5-1-a – Voluntary Quit/Other Employment

STATEMENT OF THE CASE:

The employer appealed a department decision dated May 31, 2011, reference 01, that held the claimant was laid-off due to a business closing on March 15, 2011, and benefits are allowed. A telephone hearing was held on June 28, 2011. The claimant participated. Chris Nelson, Owner, participated for the employer.

ISSUES:

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

The further issue is whether claimant should receive business closing benefits from Pappa Pepperino's LLC.

FINDINGS OF FACT:

The administrative law judge having heard the witness testimony, and having considered the evidence in the record, finds: The claimant last worked for Van Ert Glass d/b/a Breadeaux Pizza (er#362271) on March 15, 2010. The employer closed the pizza business on March 15, and offered claimant the same part-time assistant manager position at Pappa Pepperino's LLC that she had worked at Breadeaux. Claimant accepted the new position and began work on March 16.

The employer closed Pappa Pepperino's business on May 1, 2011 that ended claimant's employment. The employer is the common owner of both business, Breadeaux and Pappa Pepperino's, and it protested both claimant claims. The department was unable to make the distinction between the separate employers though it reported claimant wages under different account numbers. The department conducted one fact-finding and somehow blended the claimant employment history under one employer (Van Ert Glass).

The matter of claimant's employment relationship with Pappa Pepperino's LLC (er#373499) and her employment separation on May 1, 2011 is remanded to claims for a fact-finding as to whether claimant was permanently laid-off due to a business closing.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 96.5-1-a 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. But the individual shall not be disqualified if the department finds that:

a. The individual left employment in good faith for the sole purpose of accepting other or better employment, which the individual did accept, and the individual performed services in the new employment. Benefits relating to wage credits earned with the employer that the individual has left shall be charged to the unemployment compensation fund. This paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

The administrative law judge concludes that the claimant voluntarily quit employment with good cause attributable due to leaving for other employment effective March 15, 2010.

The claimant left employment at Van Ert Glass d/b/a Breadeaux Pizza on March 15, 2010 to accept other employment at Pappa Pepperino's LLC. Claimant is entitled to benefits, and the employer's tax account is relieved of benefit charges.

The claimant's employment separation from Pappa Pepperino's LLC on May 1, 2011 is remanded to claims for a fact-finding on the issue whether claimant is entitled to business closing benefits by reason of a permanent lay-off.

DECISION:

The department decision dated May 31, 2011, reference 01, is modified. The claimant voluntarily left with good cause attributable to the employer on March 15, 2010, for other employment. Benefits are allowed, provided the claimant is otherwise eligible. The employer is not liable for benefits paid to the claimant. The business closing benefit issue is remanded.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/pjs