

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

DERIK L MILLER
Claimant

APPEAL 17A-UI-03486-DG-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

CLASSIC FOOD & BEVERAGE INC
Employer

**OC: 03/05/17
Claimant: Respondent (4)**

Iowa Code § 96.5(1)a – Voluntary Quitting/Other Employment

STATEMENT OF THE CASE:

Employer filed an appeal from a decision of a representative dated March 23, 2017, (reference 02) that held claimant eligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on April 25, 2017. Employer participated by David Stone, Owner. Claimant failed to respond to the hearing notice and did not participate.

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 this employer during the 4th quarter of 2016. Claimant quit working for this business because he wanted to work for a different business.

Continued work was available. The claimant left employment with Classic Food and Beverage to accept other employment at Booneville Bar and Grill.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left the employment to accept employment elsewhere.

Iowa Code section 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.

Iowa Admin. Code r. 871-24.28(5) provides:

Voluntary quit requalifications and previously adjudicated voluntary quit issues.

24.28(5) The claimant shall be eligible for benefits even though the claimant voluntarily quit if the claimant left for the sole purpose of accepting an offer of other or better employment, which the claimant did accept, and from which the claimant is separated, before or after having started the new employment. The employment does not have to be covered employment and does not include self-employment.

Iowa Admin. Code r. 871-23.43(5) provides:

Charging of benefits to employer accounts.

23.43(5) *Sole purpose.* The claimant shall be eligible for benefits even though the claimant voluntarily quit if the claimant left for the sole purpose of accepting an offer of other or better employment, which the claimant did accept, and from which the claimant is separated, before or after having started the new employment. No charge shall accrue to the account of the former voluntarily quit employer.

Even though the separation was without good cause attributable to the employer and would, standing alone, disqualify the claimant from receiving benefits, the claimant did leave in order to accept other employment and did perform services for the subsequent employer. Accordingly, benefits are allowed and the account of the employer shall not be charged.

DECISION:

The March 23, 2017, (reference 02) decision is modified in favor of the appellant. The claimant voluntarily left the employment in order to accept other employment. Benefits are allowed, provided the claimant is otherwise eligible. The account of the employer (account number 236647-000) shall not be charged.

Duane L. Golden
Administrative Law Judge

Decision Dated and Mailed

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