

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JO KRUGER
Claimant

APPEAL NO. 08A-UI-11550-MT

**ADMINISTRATIVE LAW JUDGE
DECISION**

AMERISTAR CASINO CO BLUFFS INC
Employer

**OC: 10/05/08 R: 12
Claimant: Respondent (1)**

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Employer filed an appeal from a decision of a representative dated December 1, 2008, reference 01, which held claimant eligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on December 23, 2008. Claimant participated. Employer participated by Todd Richardson, Tax Hearing Representative with witness Emily Jones, Team Relations Manager. Exhibits One through Eleven and A 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 August 14, 2008. Claimant was given a layoff notice and severance package. Claimant was also granted the chance to change to another job. Claimant voluntarily transferred from Ambassador Host to the Players Club. The new job required different duties and more night work. Claimant tried the new job but was unable to stay on due to family responsibilities. Claimant quit because of the change in job duties cause by a layoff.

REASONING AND CONCLUSIONS OF LAW:

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 of a change in the contract of hire. Claimant would not have tried the new job if she had not received a layoff notice. Claimant should not be punished for attempting a job change before going on layoff. Claimant could have just accepted the layoff and received unemployment without question. It is better policy to encourage an attempt at a new job. Here the employer unilaterally removed claimant from a job that worked for her and let her try something else before layoff. This is a quit for cause attributable to employer. Benefits allowed.

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.

871 IAC 24.26(1) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(1) A change in the contract of hire. An employer's willful breach of contract of hire shall not be a disqualifiable issue. This would include any change that would jeopardize the worker's safety, health or morals. The change of contract of hire must be substantial in nature and could involve changes in working hours, shifts, remuneration, location of employment, drastic modification in type of work, etc. Minor changes in a worker's routine on the job would not constitute a change of contract of hire.

DECISION:

The decision of the representative dated December 1, 2008, reference 01, is affirmed. Unemployment insurance benefits are allowed provided claimant is otherwise eligible.

Marlon Mormann
Administrative Law Judge

Decision Dated and Mailed

mdm/pjs