

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JEANNETTE C LAPPEGARD

Claimant

APPEAL NO. 12A-UI-01194-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

FAMILY TABLE OF SHELDON LTD

Employer

OC: 12/25/11

Claimant: Appellant (1)

Section 96.5(1) – Quit

STATEMENT OF THE CASE:

The claimant, Jeannette Lappegard, filed an appeal from a decision dated January 26, 2012, reference 01. The decision disqualified her from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on February 29, 2012. The claimant participated on her own behalf. The employer, Family Table, participated by Owner Adam Cooke.

ISSUE:

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

FINDINGS OF FACT:

Jeannette Lappegard was employed by Family Table from August 9, 2010 until December 11, 2011 as a part-time waitress. On December 10, 2011, Ms. Lappegard was arguing with a co-worker about an allegation the other person had made about her leaving early the night before. Mr. Cooke heard the argument and told the claimant to go home and he would “see [her] tomorrow.” He did not want the argument to continue while the restaurant was very busy on a Saturday night and knew one or the other of the servers needed to be sent home.

When Mr. Cooke told the claimant he would see her the next day, she said “maybe” and left. The next day, she came into the restaurant and picked up her personal items and never returned.

REASONING AND CONCLUSIONS OF LAW:

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.

The claimant maintains she was fired because Mr. Cooke told her to go home. But, it is clear that he expected her to return the next day for her scheduled shift. She was the one who said "maybe" the employer would see her. Where an individual mistakenly believes that he is discharged and discontinues coming to work (but was never told he was discharged), the separation is a voluntary quit without good cause attributable to the employer. *LaGrange v. IDJS*, (Unpublished, Iowa App. 1984). The administrative law judge considers the reasoning in that case to be pertinent here.

The claimant quit because she was disciplined the day before by being sent home. This was done only because the employer considered that the two servers would continue their disagreement during the dining hour and disrupt business and disturb the customers. He did not intend to fire her and she quit without good cause attributable to the employer.

DECISION:

The representative's decision of January 26, 2012, reference 01, is affirmed. Jeannette Lappegard is disqualified and benefits are withheld until she has earned ten times her weekly benefit amount in insured work, provided she is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/kjw