

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

AMANDA S ALEY
Claimant

APPEAL NO. 09A-UI-09433-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TEXAS ROADHOUSE HOLDINGS LLC
Employer

OC: 02/01/09
Claimant: Respondent (4)

Section 96.5(1) - Quit

STATEMENT OF THE CASE:

The employer, Texas Roadhouse Holdings, filed an appeal from a decision dated June 18, 2009, reference 02. The decision allowed benefits to the claimant, Amanda Aley. After due notice was issued a hearing was held by telephone conference call on July 17, 2009. The claimant participated on her own behalf. The employer participated by Managing Partner Matt Johnson.

ISSUE:

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

FINDINGS OF FACT:

Amanda Aley was employed by Texas Roadhouse Holdings from March 9, 2009 until May 1, 2009 as a part-time server. Her last day of work was April 25, 2009, and her next scheduled shift was May 1, 2009. She elected not to show up for work on May 1, 2009, but did not notify the employer of her decision to quit.

Her resignation was based on her dislike of the work environment. She felt too many of the staff used inappropriate language and the dishwashers had a habit of being "touchy-feelie" by pulling the servers' hair or poking them in the side. At no time did she go to a member of management or even call the anonymous complaint hot line in an attempt to resolve the situation.

Ms. Aley's base period employment was with another company on a full-time basis.

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.

871 IAC 24.27 provides:

Voluntary quit of part-time employment and requalification. An individual who voluntarily quits without good cause part-time employment and has not requalified for benefits following the voluntary quit of part-time employment, yet is otherwise monetarily eligible for benefits based on wages paid by the regular or other base period employers, shall not be disqualified for voluntarily quitting the part-time employment. The individual and the part-time employer which was voluntarily quit shall be notified on the Form 65-5323 or 60-0186, Unemployment Insurance Decision, that benefit payments shall not be made which are based on the wages paid by the part-time employer and benefit charges shall not be assessed against the part-time employer's account; however, once the individual has met the requalification requirements following the voluntary quit without good cause of the part-time employer, the wages paid in the part-time employment shall be available for benefit payment purposes. For benefit charging purposes and as determined by the applicable requalification requirements, the wages paid by the part-time employer shall be transferred to the balancing account.

The claimant quit because she was uncomfortable with some of her co-workers. But at no time did she notify the employer of any of her complaints before deciding to stop showing up for work. In order for good cause attributable to the employer to exist, a claimant with grievances must make some effort to give the employer an opportunity to work out whatever problem led to the grievance. By not giving notice to the employer of the circumstances causing the decision to quit employment, the claimant failed to give the employer an opportunity to make adjustments which would alleviate the need to quit. *Denby v. Board of Review*, 567 P.2d 626 (Utah 1977).

Since this job was part-time, and Ms. Aley has wages with regular full-time work in her base period, she may still be qualified for benefits if she has sufficient earnings in her base period after removal of wages earned with this employer.

DECISION:

The representative's decision of June 18, 2009, reference 02, is modified in favor of the appellant. Amanda Aley is qualified for benefits, provided she has sufficient earnings in her base period after removal of wages earned with this employer. Texas Roadhouse Holdings shall not be charged with any benefits paid to the claimant.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/pjs