

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**TAMMY S BARKER**  
Claimant

**APPEAL NO: 09A-UI-03888-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**MCDONALD'S RESTAURANT**  
Employer

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

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

**STATEMENT OF THE CASE:**

McDonald's Restaurant (employer) appealed a representative's March 4, 2009 decision (reference 03) that concluded Tammy S. Barker (claimant) was qualified to receive benefits, and the employer's account was subject to charge because the claimant became unemployed for nondisqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on April 7, 2009. The claimant participated in the hearing. Aaron Smith appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

Did the claimant voluntarily quit her employment for reasons that qualify her to receive benefits, or did the employer discharge her for work-connected misconduct?

**FINDINGS OF FACT:**

The employer hired the claimant to work on November 7, 2008, as a crew member at the Clarinda location. All crew employees are scheduled to work 20 to 30 hours a week. The claimant understood she was hired to work full-time and worked some 35-hour weeks.

In January 2009, the claimant was scheduled to work about 20 hours a week, but there were seven days she did not report to work because of illness or because of adverse weather conditions. Other days when the claimant reported to work, the supervisor sent employees home early because business was slow.

The claimant contacted the Shenandoah manager, Marcus, to find out if she transferred if she could work more hours. The claimant understood she could have more work hours at the Shenandoah location. Marcus told the claimant to give the Clarinda location a two-week notice that she was resigning and Marcus would schedule her to work at the Shenandoah location after the two-week period. On February 1, 2009, the claimant gave Smith her two-week notice. The claimant worked her two weeks or until February 13, 2009, and then contacted the Shenandoah store to find out when she was scheduled to work. After the claimant learned she

was not scheduled to work at the Shenandoah store and Marcus did not return her calls, she asked Smith if she could rescind her resignation. Smith did not allow the claimant to return to work at the Clarinda location because of her absences. The claimant became unemployed as of February 15, 2009.

**REASONING AND CONCLUSIONS OF LAW:**

A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quits employment without good cause attributable to the employer, or an employer discharges her for reasons constituting work-connected misconduct. Iowa Code § 96.5-1, 2-a. The claimant voluntarily quit her employment when she gave the employer her two-week notice of resignation on February 1, 2009. When a claimant quits, she has the burden to establish she quit for reasons that qualify her to receive benefits. Iowa Code § 96.6-2.

The claimant submitted her resignation notice to the Clarinda store so she could transfer to the Shenandoah store. She followed the Shenandoah's manager instructions and understood she had a job at the Shenandoah store as of February 15, 2009. Unfortunately, this transfer or new job at the Shenandoah location did not materialize. This does not change the fact that claimant submitted her resignation for a new job. The law presumes a claimant is not disqualified from receiving benefits and the employer's account will not be charged, if a claimant quits because she has accepted other employment. Iowa Code § 96.5-1-a, 871 IAC 24.28(5). This means that as of February 15, 2009, the claimant is qualified to receive benefits because she voluntarily quit her employment for reasons that qualify her to receive benefits.

The employer is not one of the claimant's base period employers. Therefore, during her current benefit year, the employer's account will not be charged.

**DECISION:**

The representative's March 4, 2009 decision (reference 03) is modified in the employer's favor. The claimant voluntarily quit her employment for reasons that qualify her to receive benefits as of February 15, 2009. The employer's account will not be charged.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

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