

IOWA WORKFORCE DEVELOPMENT  
Unemployment Insurance Appeals Section  
1000 East Grand—Des Moines, Iowa 50319  
DECISION OF THE ADMINISTRATIVE LAW JUDGE  
68-0157 (7-97) – 3091078 - EI

ELIZABETH M WIEDRICH  
13657 'T' AVE  
SUMNER IA 50674

NPC INTERNATIONAL INC  
PIZZA HUT  
c/o JON-JAY ASSOCIATES INC  
PO BOX 182523  
COLUMBUS OH 43218-2523

Appeal Number: 05A-UI-02331-HT  
OC: 01/23/05 R: 04  
Claimant: Respondent (2)

**This Decision Shall Become Final**, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4<sup>th</sup> Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.5-1 – Quit  
Section 96.3-7 – Overpayment

STATEMENT OF THE CASE:

The employer, Pizza Hut, filed an appeal from a decision dated February 24, 2005, reference 01. The decision allowed benefits to the claimant, Elizabeth Wiedrich. After due notice was issued a hearing was held by telephone conference call on March 23, 2005. The claimant participated on her own behalf. The employer participated by General Manager Troy Lamphier.

#### FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Elizabeth Wiedrich was employed by Pizza Hut from September 2, 2004 until January 20, 2005. She was a full-time shift leader.

In early December 2004, Ms. Wiedrich had complained to the area manager about a comment allegedly made by General Manager Troy Lamphier. The claimant was pregnant and the general manager allegedly made some comment about his vacation in May being "ruined" by her pregnancy. The area manager did talk to the general manager and there were no further incidents.

In late December 2004, the claimant complained to Mr. Lamphier about jokes being played by another shift leader, Keith, which she found inappropriate. The general manger talked to Keith and the jokes stopped.

In early January 2005, Keith had attempted to have a car towed from the Pizza Hut parking lots. On January 16, 2005, the claimant complained to the general manager about other employees "talking about" her. He and the area manager talked to the other employees and told them this was not acceptable. There were no further incidents.

On January 20, 2005, there was to be a managers meeting with the general manager and the shift leaders in the afternoon. The meeting was held earlier without notifying the claimant. She asked Mr. Lamphier why she had not been notified and he did not have a good response. She asked if there was anything she needed to know and he said no. At that point the claimant reported to Mr. Lamphier that Keith had allegedly been bragging that he was not going to get into trouble for attempting to have the car towed because he had "covered [his] ass." The general manager said he had already talked to Keith and he had denied making any such comment.

Ms. Wiedrich then said she could "put up with it" for two more weeks and gave her notice. Later in the evening the store got busy and she found there was been inadequate prep work done by the previous shift. She called in another shift leader and notified the general manger she was quitting.

Elizabeth Wiedrich has received unemployment benefits since filing a claim with an effective date of January 23, 2005.

#### REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant is disqualified. The judge concludes she is.

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 24.25(21)(22) provide:

Voluntary quit without good cause. In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(21) The claimant left because of dissatisfaction with the work environment.

(22) The claimant left because of a personality conflict with the supervisor.

The claimant quit because she felt she was being discriminated against because she was pregnant. There is nothing in the record to support this contention. It appears the claimant was having problems in the work place, but every complaint she made had been addressed immediately and the problem did not reoccur. The administrative law judge finds nothing in the record to support a finding of "detrimental working conditions" in this case, but merely personality conflicts and disagreements with the way the business was operated. This does not constitute good cause attributable to the employer and the claimant is disqualified.

Iowa Code section 96.3-7 provides:

7. Recovery of overpayment of benefits. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

The claimant has received unemployment benefits to which she is not entitled. These must be recovered in accordance with the provisions of Iowa law.

DECISION:

The representative's decision of February 24, 2005, reference 01, is reversed. Elizabeth Wiedrich is disqualified and benefits are withheld until she has earned ten times her weekly benefit amount provided she is otherwise eligible. She is overpaid in the amount of \$1,872.09.

bgh/tjc