

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

CARRIE J DEARBORN
Claimant

ANTONELLA'S TRATTORIA
Employer

APPEAL 19A-UI-01182-LJ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 01/06/19
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant filed an appeal from the January 30, 2019, (reference 03) unemployment insurance decision that denied benefits based upon a determination that claimant voluntarily quit for personal reasons. The parties were properly notified of the hearing. A telephonic hearing was held on February 26, 2019. The claimant, Carrie J. Dearborn, participated. The employer, Antonella's Trattoria, participated through Giovanni Sgro, Owner.

ISSUE:

Did claimant voluntarily quit the employment with good cause attributable to employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed part time, most recently as a cook and server, from August 7, 2018, until November 23, 2018, when she quit. On claimant's final day of employment, there was confusion about the schedule and claimant unintentionally came in late. When claimant arrived, her name was scratched off the floor schedule noting who had what tables, so claimant started doing sidework. Later in the evening, there was confusion and claimant may have been getting assigned a table. Claimant did not understand if this was her table or not, and she got frustrated, so she quit.

Claimant had previous issues with the floor schedule and with disparate treatment among employees. These issues happened throughout claimant's employment. Additionally, claimant was frequently called and asked to work when she was not scheduled, due to other staff-members not being able to work or other issues. Things started to improve toward the end of claimant's employment, but occasionally they reverted to the old, chaotic way, and claimant did not trust that they would get better.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant's separation from employment is without good cause attributable to the employer. Benefits are withheld.

Iowa Code §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.

Iowa Admin. Code r. 871-24.25 provides:

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.

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). "Good cause" for leaving employment must be that which is reasonable to the average person, not the overly sensitive individual or the claimant in particular. *Uniweld Products v. Indus. Relations Comm'n*, 277 So.2d 827 (Fla. Dist. Ct. App. 1973). In this case, claimant experienced frustrations including employee favoritism, short-notice work requests, and inconsistent and unpredictable work assignments. While these issues may be frustrating, they are common in the restaurant industry and are not dangerous, illegal, or otherwise so detrimental as to compel an employee to quit with good cause attributable to her employer.

A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980). Claimant announced that she was quitting and abandoned her job. She has not established a good-cause reason for quitting that is attributable to her former employer. Benefits are withheld.

DECISION:

The January 30, 2019, (reference 03) unemployment insurance decision is affirmed. Claimant separated from employment without good cause attributable to the employer. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Elizabeth A. Johnson
Administrative Law Judge

Decision Dated and Mailed

lj/rvs