

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DIANE O'NEILL
Claimant

APPEAL NO. 08A-UI-07025-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WILD ROSE CLINTON LLC
Employer

OC: 06/22/08 R: 04
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Diane O'Neill filed a timely appeal from an unemployment insurance decision dated July 24, 2008, reference 01, that disqualified her for benefits. After due notice was issued, a telephone hearing was held August 18, 2008, with Ms. O'Neill participating. She was represented by G. Wylie Pillers, attorney at law; and Randy Tompkins testified on her behalf. Human Resources Manager Heather McKamey participated for the employer, Wild Rose Clinton LLC.

ISSUE:

Did the claimant quit for good cause attributable to the employer?

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: Diane O'Neill was employed by Wild Rose Clinton from May 1991 until she resigned March 13, 2008. She last worked full-time as buffet manager. Ms. O'Neill's direct supervisor was Sam Seago, the facilities hospitality manager.

The incident that led to the resignation was a reprimand given by Mr. Seago. Ms. O'Neill had not told her supervisor that certain subordinate managers were not at work at a time that she planned to be off duty herself. Mr. Seago told Ms. O'Neill that he felt that she was hiding the information from him.

Wild Rose Clinton LLC purchased the Mississippi Belle in 2007. At the time of that transaction, Ms. O'Neill was food and beverage manager. Mr. Seago was not a part of the company until after the sale to Wild Rose Clinton.

Mr. Seago gave Ms. O'Neill an evaluation in September of 2007. He noted that her computer skills were not what they should be and that she needed to work on communications with her subordinates. On December 19, 2007, Ms O'Neill was demoted from food and beverage manager. Her pay was reduced by \$16,000 per year. The company was in the process of expanding to a facility twice the size that it had formerly occupied. Although the reason for the

demotion was not given to Ms. O'Neill, it occurred because of re-organization within the company due to its expansion. Ms. O'Neill did not resign in December of 2007.

Later in December 2007, Mr. Seago told Ms. O'Neill that two of Ms. O'Neill's subordinates felt that they could not talk to her. When Ms. O'Neill confronted those subordinates, they denied making that statement. Ms. O'Neill asked Randy Tompkins, then the human resources manager, to set up a meeting involving those two, Mr. Seago, and General Manager Tim Bowman. At the meeting, Mr. Seago stated that he must have misunderstood what the employees said. The matter was dropped.

There were no further incidents until the incident leading directly to the decision to resign.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence establishes that the claimant had good cause attributable to the employer for her resignation. The administrative law judge concludes that it does not.

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 has the burden of proof. See Iowa Code section 96.6-2. An individual may receive unemployment insurance benefits if the individual resigns because of a substantial change in the conditions of employment. See 871 IAC 24.26(1). Had Ms. O'Neill resigned at the time of her demotion, the administrative law judge would have allowed benefits pursuant to this rule. However, an individual acquiesces in a substantial change in the conditions of employment if they continue working after the change has been implemented. See Olson v. Employment Appeal Board, 460 N.W.2d 865 (Iowa App. 1990).

An individual may also receive unemployment insurance benefits if the individual resigns because of intolerable or detrimental working conditions. See 871 IAC 24.26(4). On the other hand, an individual is disqualified for benefits if the individual resigns because of general dissatisfaction with the work environment or because of a personality conflict with a supervisor or because of a reprimand. See 871 IAC 24.25(21), (22), and (28), respectively.

Several times in testimony, Ms. O'Neill referred to the work environment as "hostile." The administrative law judge finds no evidence of age or gender discrimination in the testimony. The claimant has not established that the employer demoted her for anything other than a legitimate business reason. It is clear from the evidence that a personality conflict existed between Ms. O'Neill and Mr. Seago. Furthermore, the evidence establishes that the reprimand in March of 2008 was the event triggering the resignation. The evidence persuades the administrative law judge that the resignation was the direct result of the personality conflict and the reprimand. Benefits must be withheld.

DECISION:

The unemployment insurance decision dated July 24, 2008, reference 01, is affirmed. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

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