

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MELISSA S ALLEY**  
Claimant

**APPEAL NO. 12A-UI-11980-ST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**M'S FINE DINING INC**  
Employer

**OC: 09/02/12**  
**Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Quit  
871 IAC 24.25(2) – Move to a new Locality

**STATEMENT OF THE CASE:**

The claimant appealed a department representative's decision dated October 4, 2012, reference 01, that held he voluntarily quit without good cause on May 24, 2012, and benefits are denied. A hearing was held on October 30, 2012. The claimant participated. Billie Magwitz, owner, participated for the employer.

**ISSUE:**

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

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony of the witnesses and having considered the evidence in the record, finds that: The claimant started work as a full-time kitchen helper for the employer beginning February 16, 2011. She last worked on May 24, 2012. Claimant gave notice to the employer on May 1 she was leaving to move to Newton. Claimant left employment and on May 25 moved to Newton, where she remained until the end of June.

The employer denies she granted claimant a leave of absence and she did eventually replace her with another employee. This is why claimant was not re-hired when she later asked for her job back.

**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 24.25(2) 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:

(2) The claimant moved to a different locality.

The administrative law judge concludes that the claimant voluntarily quit without good cause attributable to her employer when she left her job on May 24, 2012, due to moving to a new locality.

The employer denies she granted claimant a leave of absence and claimant admits she gave notice on May 1 she was quitting to move without any leave granted at that time. Once the employer accepted the verbal resignation, the door was closed as to any leave period. The fact is claimant gave notice she was quitting to move and did so the day after her last day at work.

**DECISION:**

The decision of the department representative dated October 4, 2012, reference 01, is affirmed. The claimant voluntarily quit without good cause attributable to the employer on May 24, 2012. Benefits are allowed (or denied until the claimant requalifies by working in and being paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

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Randy L. Stephenson  
Administrative Law Judge

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Decision Dated and Mailed

rls/kjw