

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MICHAEL KREMLA
Claimant

APPEAL NO. 12A-UI-05002-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

HARVEYS CASINO RESORTS
Employer

OC: 04/01/12
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

The claimant filed a timely appeal from a representative's decision dated April 23, 2012, reference 01, which denied unemployment insurance benefits. After due notice was issued, a telephone hearing was held on May 22, 2012. The claimant participated. Participating as a witness for the employer was Vicki Broussard, human resource generalist.

ISSUE:

At issue is whether the claimant left employment with good cause attributable to the employer.

FINDINGS OF FACT:

Having considered the evidence in the record, the administrative law judge finds: Michael Kremla was employed by Harvey's Casino Resorts from March 1995 until March 31, 2012, when he voluntarily left his employment. Mr. Kremla last worked as a full-time production cook and was paid by the hour. His immediate supervisor was Jeremy Gutierrez. Mr. Kremla left his employment with Harvey's Casino Resorts when he elected not to return from taking approximately one month off, utilizing personal time off that he had accumulated while employed by the company. The claimant also utilized a 30-day period to determine whether he wished to accept any other employment that was available with Harvey's Casino Resorts.

Mr. Kremla became increasingly dissatisfied in his position as a production cook because the work was often stressful and required the cooks to perform numerous duties simultaneously. The claimant was unable to take specified break periods. Break periods were available to the claimant when cooking duties allowed. Although the claimant had voiced his dissatisfaction about the working environment to his immediate supervisor, Mr. Kremla did not go up the chain of command to complain further, although he was aware of the company's open door policy and his right to complain to upper management and/or the company's human resource department.

REASONING AND CONCLUSIONS OF LAW:

The question before the administrative law judge is whether the evidence in the record establishes the claimant left employment with good cause attributable to the employer. 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.

871 IAC 24.25(21) 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.

An individual who voluntarily leaves their employment must first give notice to the employer of the reasons for quitting in order to give the employer an opportunity to address or resolve the complaint. See Cobb v. Employment Appeal Board, 506 N.W.2d 445 (Iowa 1993). An employee who receives a reasonable expectation of assistance from the employer after complaining about working conditions must complain further if conditions persist in order to preserve eligibility for benefits. See Polley v. Gopher Bearing Company, 478 N.W.2d 775 (Minn. App. 1991).

Inasmuch as the claimant was aware of the company's open door policy and his right to bring his concerns to upper management or the company's human resource department but did not do so, the administrative law judge concludes the claimant left his employment without good cause attributable to the employer. The claimant made general complaints to his immediate supervisor, but the record does not establish that Mr. Kremla indicated that he would have to quit employment if working conditions did not change. Although the claimant was given a reasonable opportunity to take time away from work and bid for other jobs within the company, Mr. Kremla did not find a job position that was acceptable to him and elected to voluntarily quit employment effective on or about March 31, 2012. Unemployment insurance benefits are withheld until the claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

DECISION:

The representative's decision dated April 23, 2012, reference 01, is affirmed. The claimant left employment without good cause attributable to the employer. Unemployment insurance benefits are withheld until the claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

kjw/kjw