

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KARLA J TURNER-MILLER
Claimant

APPEAL NO: 09A-UI-08251-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

AMERISTAR CASINO CO BLUFFS LLC
Employer

OC: 11/30/08
Claimant: Respondent (4)

Section 96.5-1 – Voluntary Quit
871 IAC 24.27 – Voluntary Quit Part Time Employment

STATEMENT OF THE CASE:

Ameristar Casino Council Bluffs LLC (employer) appealed a representative's May 28, 2009 decision (reference 06) that concluded Karla J. Turner-Miller (claimant) remained qualified to receive benefits because the reasons for her April 18, 2009 employment separation was for non disqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on June 24, 2009. The claimant responded to the hearing notice, but was not available for the hearing. Although a message was left for her to contact the Appeals Section immediately, she did not. Beth Crocker, a representative with Unemployment Services, represented the employer. Emily Jones, a team relations manager, and Tim Petersen, the casino service manager, appeared on the employer's behalf. Based on the evidence, the arguments of the employer, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the claimant voluntarily quit her part-time job for reasons that do not qualify her to receive benefits, or did the employer discharge her for work-connected misconduct?

FINDINGS OF FACT:

The claimant established a claim for benefits during the week of November 30, 2008. The employer hired the claimant to work as a part-time casino service representative on January 3, 2009. The claimant worked an average of 25 hours a week.

During her employment, the claimant received warnings about variances or job performance issues. Prior to April 22, 2009, the claimant received a final warning that informed her that her job was in jeopardy.

The last day the claimant worked was April 18, 2009. On April 22, the claimant was scheduled to work 4:00 p.m. to midnight. The claimant had classes the morning of April 22, 2009. After her class, the claimant took a nap and overslept. When she did not call or report to work, her supervisor called the claimant at 4:15 p.m. to find out why she was not at work. The claimant

explained she had decided she would not return to work after she woke up too late to report to work on time. She assumed she would have been discharged if she came to work late.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quits employment without good cause attributable to the employer, or an employer discharges her for reasons constituting work-connected misconduct. Iowa Code sections 96.5-1, 2-a. In this case, the evidence indicates the claimant made the decision she would not return to work because she assumed the employer would discharge her. While the claimant's assumption was correct, the employer was not given the opportunity to discharge the claimant for performance issues. As a result, the claimant initiated the employment separation on April 22, 2009, when she decided not to report or return to work. When a claimant quits, she has the burden to establish she quit for reasons that qualify her to receive benefits. Iowa Code section 96.6-2.

Since the claimant quit her employment for personal reasons, if she had been working full-time, she would be disqualified from receiving benefits. If the employer would have been a base period, its account would not be subject to charge. Iowa Code section 96.7-2-a(2). When a claimant voluntarily quits part-time employment without good cause, she may still be eligible to receive benefits if she is monetarily eligible to receive benefits based on wages she earned from base period employers. The employer is not a base period employer, and the claimant is monetarily eligible to receive benefits based on wages she earned from employers in her base period. Therefore, as of April 19, 2009, the claimant remains qualified to receive benefits, provided she meets all other eligibility requirements. The employer's account is not currently subject to charge. If the claimant establishes a new benefit year and the employer becomes one of her base period employers, the employer's account will not be charged because the claimant voluntarily quit her part-time employment without good cause.

DECISION:

The representative's May 28, 2009 decision (reference 06) is modified in the employer's favor. The claimant voluntarily quit her part-time employment without good cause. Therefore, the employer's account will not be charged. Since the employer is not one of the claimant's base period employers and the claimant is monetarily eligible to receive benefits based on wages she earned from her base period employers, as of April 19, 2009, she remains qualified to receive benefits.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs