

**IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI**

**AMBER M WESTEMEIER
509 ½ ARLINGTON ST
DUBUQUE IA 52001**

**GIUNTA ITALIAN RISTORANTE CORP
5900 SARATOGA RD
ASBURY IA 52002 2124**

**Appeal Number: 04A-UI-06174-H2T
OC 05-02-04 R 04
Claimant: Respondent (1)**

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the ***Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319.***

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5-1 – Voluntary Leaving - Layoff

STATEMENT OF THE CASE:

The employer filed a timely appeal from the May 24, 2004, reference 02, decision that allowed benefits. After due notice was issued, a hearing was held on June 28, 2004. The claimant did not participate. The employer did participate through Frank Giunta, Owner, and Rachel Guinta, Manager.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a waitress part-time beginning May 5, 2003 through April 25, 2004 when she was laid off. The claimant was laid off due to lack of work. When the claimant was hired, she was not hired with the expectation that she would be required to work nights. The

claimant did not want to work nights. There were not daytime shift hours available for the claimant.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was laid off due to a lack of work.

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 was laid off due to lack of work during the daytime shift for which she was hired. Therefore, the separation was attributable to a lack of work by the employer. Benefits are allowed.

DECISION:

The May 24, 2004, reference 02, decision is affirmed. The claimant was laid off due to a lack of work. Benefits are allowed, provided the claimant is otherwise eligible.

tkh/kjf