

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**STACY BARTELS**  
Claimant

**APPEAL NO: 11A-UI-13797-B**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**MCSOIFER'S INC**  
Employer

**OC: 09/18/11  
Claimant: Appellant (1)**

Iowa Code § 96.5-1 - Voluntary Quit

**STATEMENT OF THE CASE:**

Stacy Bartels (claimant) appealed an unemployment insurance decision dated October 10, 2011, reference 01, which held that she was not eligible for unemployment insurance benefits because she voluntarily quit her employment with McSoifer's, Inc. (employer) without good cause attributable to the employer. After hearing notices were mailed to the parties' last-known addresses of record, a hearing was held in Mason City, Iowa on December 5, 2011. The claimant participated in the hearing with former employee Drew Gloede. The employer participated through co-owners Sam and Scott Soifer; Randy Betsinger, Area Supervisor; and Terri Vargason, Store Manager. Employer's Exhibits One and Two and Claimant's Exhibits A and B were admitted into evidence. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

The issue is whether the claimant's voluntary separation from employment qualifies her to receive unemployment insurance benefits.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The owner has eight restaurants and approximately 400 employees. It has outlined hiring guidelines which allows for differences based on experience, age and responsibilities. A new teenage crew member with no experience starts at \$7.25 per hour and a crew member typically works some nights and weekends. A swing manager earns \$9.00 per hour with added amounts for extra responsibilities up to a maximum of \$14.00 per hour. A first assistant manager is paid \$38,000.00 per year and is essentially responsible for a restaurant, aside from the store manager.

The claimant was hired as a part-time crew member on November 6, 1997 and was working as a full-time first assistant manager when she voluntarily quit on September 21, 2011. She started working in Oelwein which is where she lives but transferred to Independence, Iowa which is a 20-minute drive. From there she transferred to Center Point, Iowa which is

45 minutes away and worked there for about 18 months. The claimant was most recently working in New Hampton, Iowa which is about a 50-minute drive. She started as crew at minimum wage and was promoted to a floor supervisor, a swing manager, a second assistant manager before she was promoted to become a first assistant manager. She had received an extensive amount of training and had a lot of skills and experience by this point.

The store manager at the New Hampton store was known to be difficult to work with and the claimant was tired of working with this manager. However, she was also tired of the responsibility and the excessive driving; she needed to be home with her young daughter who was having significant problems. The claimant told the employer she wanted to step down to a crew member. She wanted to work in Oelwein earning \$11.00 per hour without working nights or weekends. The claimant said another employee was earning that rate and only had to work days but this other employee had several other responsibilities which increased her pay rate. The employer was able to offer the claimant \$9.00 per hour with work no later than 7:00 p.m. and two Saturdays per month. The claimant was offended as she felt like she was worth more than that and she voluntarily quit without notice.

### **REASONING AND CONCLUSIONS OF LAW:**

The issue is whether the claimant's voluntary separation from employment qualifies her to receive unemployment insurance benefits.

Iowa Code § 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(23) 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 § 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 § 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:

(23) The claimant left voluntarily due to family responsibilities or serious family needs.

The claimant no longer wanted to work as a first assistant manager; she wanted to step down to a crew person on days in Oelwein with no extra responsibilities but was not willing to accept the employer's hours or the rate of pay for that position. She testified that she felt she was worth more than the employer was willing to pay her as a crew member. The claimant's decision to leave was a personal one and not attributable to the employer.

It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify her. Iowa Code § 96.6-2. She has not satisfied that burden and benefits are denied.

**DECISION:**

The unemployment insurance decision dated October 10, 2011, reference 01, is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until she has worked in and has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

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Susan D. Ackerman  
Administrative Law Judge

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Decision Dated and Mailed

sda/pjs