

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**SANDRA K SHAFFER**  
Claimant

**APPEAL NO. 12A-UI-15298-L**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**BRUEGGERS ENTERPRISES INC**  
Employer

**OC: 11/25/12  
Claimant: Appellant (4)**

Iowa Code § 96.5(1) – Voluntary Quitting  
Iowa Code § 96.5(2)a – Discharge for Misconduct

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the December 21, 2012 (reference 01) decision that denied benefits. After due notice was issued, a hearing was held on January 30, 2013 in Cedar Rapids, Iowa. Claimant participated with niece and former shift supervisor, Jennifer Mathias (separation November 12, 2012). Employer participated through district manager, Andrew Hilliard. Employer's Exhibit 1 was received.

**ISSUE:**

Did claimant voluntarily leave the employment with good cause attributable to employer or did employer discharge claimant for reasons related to job misconduct sufficient to warrant a denial of benefits?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed as a full-time hourly shift supervisor from April 15, 2008 through November 23, 2012 when she quit. She left a voice mail for Hilliard on November 15, 2012. She was not allowed to work the full two weeks until November 29, 2012 but was allowed to work through November 23, 2012.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes claimant's separation from the employment was without good cause attributable to the employer.

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(13) and (37) provide:

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:

(13) The claimant left because of dissatisfaction with the wages but knew the rate of pay when hired.

(37) The claimant will be considered to have left employment voluntarily when such claimant gave the employer notice of an intention to resign and the employer accepted such resignation. This rule shall also apply to the claimant who was employed by an educational institution who has declined or refused to accept a new contract or reasonable assurance of work for a successive academic term or year and the offer of work was within the purview of the individual's training and experience.

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). Claimant's leaving the employment because of dissatisfaction with the wages and tips renders the separation without good cause attributable to the employer. Because the discharge was in advance of resignation notice of November 29, 2012 and no misconduct is established for the period from November 23 through November 29, 2012 and since the employer terminated the employment relationship in advance of the resignation notice effective date, the claimant is entitled to benefits from the date of termination until the effective date of the proposed resignation.

**DECISION:**

The December 21, 2012 (reference 01) decision is modified. The claimant voluntarily left her employment without good cause attributable to the employer, but was discharged prior to the resignation effective date. Benefits are allowed until December 1, 2012. Thereafter, benefits are withheld until such time as the claimant works in and has been paid wages equal to ten times her weekly benefit amount.

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Dévon M. Lewis  
Administrative Law Judge

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Decision Dated and Mailed

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