

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**BRIAN T UHL**  
Claimant

**APPEAL NO: 11A-UI-10242-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**FAZOLI'S RESTAURANTS LLC**  
Employer

**OC: 07/03/11**  
**Claimant: Respondent (2/R)**

Iowa Code § 96.1 – Voluntary Quit

**PROCEDURAL STATEMENT OF THE CASE:**

The employer appealed a representative's July 25, 2011 determination (reference 01) that held the claimant qualified to receive benefits and the employer's account subject to charge because the claimant had been discharged for non disqualifying reasons. The claimant participated in the hearing. Jennifer Whittington, the general manager, appeared on the employer's behalf. During the hearing, Employer Exhibits One through Four were offered and admitted evidence. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is not qualified to receive benefits.

**ISSUE:**

Did the claimant voluntarily quit his employment for reasons that qualify him to receive benefits, or did the employer discharge him for reasons constituting work-connected misconduct?

**FINDINGS OF FACT:**

The claimant worked about two years for the employer. He worked as a full-time shift leader. Prior to July 1, 2011, the claimant understood he would be transferred to another store in July and Whittington would no longer be his supervisor. The claimant did not know the date of his transfer, but the employer planned the transfer on July 14.

On June 30, the claimant understood he only had to work until 8 p.m. the next day. The claimant planned to take his children to see fireworks and would not have a problem doing this if he was off work by 8 p.m. On July 1, when the claimant reported to work, he was told he was scheduled to close. (Employer Exhibit Three.) The claimant was upset because he wanted to take his children to a fireworks show. Whittington recognized that the claimant was upset and decided she would come back at 9 p.m. so the claimant could leave work and take his children to a fireworks display. After Whittington left, the claimant had to send some employees home because of labor costs. After employees were sent home, the restaurant started getting busier and the claimant did not have enough employees at work. He told employees still at work to work faster because of the number of customers who wanted food. (Employer Exhibit Four.)

The claimant called Whittington to see if she could come back earlier because he was so busy. He then learned she had an emergency and would not be back by 9 p.m. as she previously told him. Whittington knew he was upset when she told him this.

When the store became even busier, the claimant called Whittington again because he could not handle the restaurant's business without someone helping him. When he called the second time she had just gotten to the restaurant. Whittington was upset with the claimant when she got to the restaurant. He was upset with her and because the restaurant was so busy. After employees told Whittington the restaurant was a mess because the claimant had been throwing and kicking things, she told the claimant to leave her store and never come back. Even though she did not want the claimant in her store again, the employer would still allow him to work at another store under a new supervisor. Whittington told the claimant to call management to see when he could work at the other restaurant. The claimant was not interested in working for the employer after what happened on July 1.

The claimant did not contact management or the other store manager about working at the new location. Instead, he established a claim for benefits and started filing weekly claims.

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

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause attributable to the employer, or an employer discharges him for reasons constituting work-connected misconduct. Iowa Code §§ 96.5(1), (2)a.

Although the claimant denied Whittington told him to contact management to find out when he could start working at the other location, Whittington only banned the claimant from her restaurant. The fact the claimant acknowledged that he wanted to do something else after Whittington ordered him to leave supports her testimony that she told him to contact the other supervisor to find out when he could start working at the new location. Since the claimant was ready for a change, he took the July 1 incident as a means to start something new. As a result, he did not contact the other supervisor or go to work at the other location, even though the employer still planned for the claimant to work at the new location. For unemployment insurance purposes, the claimant voluntarily quit his employment. When a claimant quits, he has the burden to establish he quit for reasons that qualify him to receive benefits. Iowa Code § 96.6(2).

The claimant established personal reasons for quitting. His reason for quitting, wanting a change, does not qualify him to receive benefits. As of July 3, 2011, the claimant is not qualified to receive benefits.

An issue of overpayment or whether the claimant is eligible for a waiver of any overpayment of benefits he has received since July 3 will be remanded to the Claims Section to determine.

#### **DECISION:**

The representative's July 25, 2011 determination (reference 01) is reversed. The employer did not discharge the claimant. Instead, he voluntarily quit when he did not contact another supervisor about working at another restaurant and did not report to work at the other location.

The claimant quit for personal reasons, but these reasons do not qualify him to receive benefits. The claimant is disqualified from receiving unemployment insurance benefits as of July 3, 2011. This disqualification continues until he has been paid ten times his weekly benefit amount for insured work, provided he is otherwise eligible. The employer's account will not be charged. The issue of overpayment or whether the claimant is eligible for a waiver of any overpayment is **Remanded** to the Claims Section to determine.

---

Debra L. Wise  
Administrative Law Judge

---

Decision Dated and Mailed

dlw/pjs