

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SAMANTHA J CHRISTIANSON
Claimant

APPEAL NO. 08A-UI-10178-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

PERKINS RESTAURANT & BAKERY
Employer

OC: 08/31/08 R: 02
Claimant: Appellant (4/R)

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

STATEMENT OF THE CASE:

Samantha J. Christianson (claimant) appealed a representative's October 30, 2008 decision (reference 03) that concluded she was not qualified to receive benefits, and the account of Perkins Restaurant & Bakery (employer) would not be charged because the claimant voluntarily quit her employment for reasons that do not qualify her to receive benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on November 17, 2008. The claimant participated in the hearing. Breanna Wentz, the general manager, appeared on the employer's behalf. 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:

Did the claimant voluntarily quit her part-time employment for reasons that qualify her to receive benefits, or did the employer discharge her for work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer on October 27, 2007. The claimant worked as part-time server. Prior to August 29, 2008, the claimant's job was not in jeopardy.

On August 29 the claimant called the employer an hour before her shift. The claimant told the employer she had to leave town for the weekend because someone had broken into her apartment and beaten her. Lentz told the claimant she either had to find a replacement for her shifts that weekend or she had to bring a copy of the police report so the employer could excuse her absences. If the claimant did not follow one of these two options, the employer told the claimant she would be discharged.

A replacement employee worked for the claimant on Friday. On Sunday, the claimant could not find anyone to replace her. The claimant assumed the employer would discharge her because she did not find a replacement for all her weekend shifts. The claimant did not give the

employer a copy of a police report as the employer told her she could do. The claimant did not contact Lentz or report to work after August 31, 2008.

The claimant established a claim for benefits during the week of August 31, 2008. She has wage credits from other employers in her base period.

REASONING AND CONCLUSIONS OF LAW:

The first issue that must be addressed is a credibility issue. The claimant asserted she talked to Lentz on August 31, but Lentz testified the claimant only talked to her on August 29. Both the claimant and Lentz agreed that during the August 29 conversation Lentz told the claimant to either find a replacement for shifts she would miss or provide the employer with a copy of the police report. The parties also agreed that Lentz told the claimant on August 29 that if the claimant did not follow through on one of the two options, she would be discharged. The claimant's testimony that she talked to Lentz again on August 31 is not credible, because she knew at that time all she had to do was give the employer a copy of a police report, if there was a police report. Also, the claimant testified she was in Ames on Sunday and returned to her residence the next day. If the claimant returned to her home the next day, it is difficult to understand why the claimant did not report to work on Sunday if she had talked on August 31 to Lentz, who allegedly told her that if she did not work on Sunday, she did not have a job. Based on the above credibility discrepancies, the claimant's testimony is not credible. Therefore, the findings of fact reflect the employer's version of events.

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 §§ 96.5-1, 2-a. When the claimant failed to return to work anytime after August 31 or provide the employer with a police report to excuse her absences that weekend, the claimant quit by abandoning her employment. When a claimant quits, she has the burden to establish she quit for reasons that qualify her to receive benefits. Iowa Code § 96.6-2.

The facts establish the claimant quit for reasons that do not qualify her to receive benefits. If the claimant had been working a full-time job, she would be disqualified from receiving unemployment insurance benefits. When a claimant quits a part-time job without good cause and has not requalified by earning ten times her weekly benefit amount, the claimant may be eligible to receive benefits if she has other wages credits in her base period that still make her monetarily eligible to receive benefits even though the employer's wages are not included in this calculation. 871 IAC 24.27.

The record indicates the claimant has wage credits from other employers in her base period. Even when the wages credits from the employer are not included, the claimant is still monetarily eligible to receive bases on her other wage credits. When the wages from the employer are excluded, the claimant's maximum weekly benefit amount may change. Therefore, this matter is remanded to the Claims Section to determine the claimant's maximum weekly benefits in accordance with this decision.

DECISION:

The representative's October 30, 2008 decision (reference 03) is modified in the claimant's favor. The claimant voluntarily quit her part-time employment for reasons that would not qualify her to receive benefits if she had been working full time. Since this was a part-time job and the claimant has wage credits from other employers in her base period that still make her monetarily eligible to receive benefits, she is qualified to receive benefits as of August 31, 2008. The amount of her weekly benefits is remanded to the Claims Section to determine because the employer's wages cannot be included in this determination. The employer's account will not be charged.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/kjw