

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

NATALIE J SMITH
Claimant

MENARD INC
Employer

APPEAL NO: 10A-UI-14503-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 09/19/10
Claimant: Respondent (4-R)

Section 96.5-1 – Voluntary Quit
871 IAC 24.25(22) – Supervisor Conflict
871 IAC 24.27 – Part-time Employment Qualification
Section 96.3-7 – Recovery of Overpayment

STATEMENT OF THE CASE:

The employer appealed a department decision dated October 15, 2010, reference 01, that held the claimant voluntarily quit with good cause attributable to the employer on September 21, 2010, and benefits are allowed. A telephone hearing was held on December 9, 2010. The claimant did not participate. Matt Novy, General Manager, participated for the employer.

ISSUES:

Whether the claimant voluntarily quit with good cause attributable to the employer.

Whether claimant is eligible for benefits for quitting part-time non-base period employment.

FINDINGS OF FACT:

The administrative law judge having heard the testimony of the witness, and having considered the evidence in the record, finds: The claimant worked as a part-time delivery coordinator from April 9, 2010 to September 21. On September 21, the employer contractor department sales manager advised claimant she had provided miss-information to a customer/contractor about whether the employer would make a job site delivery. The claimant became upset with the sales manager about how she was corrected. A co-worker suggested to claimant to cool down about the incident, but the claimant clocked-out and left. The employer had no claimant complaint record in her prior working relationship with the sales manager.

Later that day, claimant called human resources to complain about her treatment and she requested to be re-assigned to another department. The employer denied the request because it had no other job openings. The claimant did not report back for work. The employer considered she quit employment.

The claimant failed to respond to the hearing notice. The claimant is receiving benefits on her current unemployment claim. The department has issued re-qualification decisions in this matter, but claimant has not re-qualified from this most recent employment separation.

REASONING AND CONCLUSIONS OF LAW:

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.

871 IAC 24.25(22) 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 section 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 section 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:

(22) The claimant left because of a personality conflict with the supervisor.

The administrative law judge concludes claimant voluntarily quit part-time, non-base period employment without good cause attributable to the employer on September 21, 2010, due to a personality conflict with a supervisor.

The one-time incident where a supervisor is correcting a subordinate employee does not constitute an intolerable or detrimental working condition that establishes a good cause for quitting, especially where there is no prior history of claimant complaints.

871 IAC 24.27 provides:

Voluntary quit of part-time employment and requalification. An individual who voluntarily quits without good cause part-time employment and has not requalified for benefits following the voluntary quit of part-time employment, yet is otherwise monetarily eligible for benefits based on wages paid by the regular or other base period employers, shall not be disqualified for voluntarily quitting the part-time employment. The individual and the part-time employer which was voluntarily quit shall be notified on the Form 65-5323 or 60-0186, Unemployment Insurance Decision, that benefit payments shall not be made which are based on the wages paid by the part-time employer and benefit charges shall not be assessed against the part-time employer's account; however, once the individual has met the requalification requirements following the voluntary quit without good cause of the part-time employer, the wages paid in the part-time employment shall be available for benefit payment purposes. For benefit charging purposes and as determined by the applicable requalification requirements, the wages paid by the part-time employer shall be transferred to the balancing account.

The administrative law judge further concludes the issue whether claimant is otherwise eligible for benefits is remanded to claims.

While the department has issued recent re-qualification decisions on claimant's claim, it is not clear be deleting the current employer wage credits whether claimant remains eligible. Claims should issue to claimant a "summary decision" that she is or is not eligible for benefits. If claimant is not eligible, claims should lock her current claim and determine whether there is an overpayment of benefit.

DECISION:

The department decision dated October 15, 2010, reference 01, is modified. The claimant voluntarily quit without good cause part-time, non-base period employment on September 21, 2010. The issue whether claimant is eligible for unemployment benefits by base period employment earnings, is remanded to claims for a summary decision after reviewing all employment and department decisions. The overpayment issue is remanded.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

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