

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MARGARET T PRITCHARD
Claimant

APPEAL NO. 13A-UI-11962-LT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ALS CORNER OIL CO
Employer

OC: 09/22/13
Claimant: Appellant (5)

Iowa Code § 96.5(1) – Voluntary Leaving
Iowa Admin. Code r. 871-24.27 – Voluntary Leaving Part-time Employment

STATEMENT OF THE CASE:

The claimant filed an appeal from the October 15, 2013, (reference 02) unemployment insurance decision that denied benefits based upon voluntarily quitting the employment. The parties were properly notified about the hearing. A telephone hearing was held on November 18, 2013. Claimant participated with owner of Willison Concrete Ryan Willison. Employer participated through operations manager/human resource clerk, Cindy Tiefenthaler and store manager, Sally Hoyle.

ISSUES:

Did claimant voluntarily quit the employment with good cause attributable to employer?

Is the claimant otherwise monetarily eligible for benefits?

Is the employer liable for benefit charges?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed part time as a kitchen worker/cashier since October 2012, and was separated from employment on July 23, 2013. On July 3, she gave a notice of her intention to quit because she had not had a raise since she was hired. No raise had been promised but the employer offered her a 25 cent raise if she stayed. She declined. Continued work was available. After she gave her notice of intention to resign, she obtained other employment at Willison Concrete towards the end of July to begin in early August. The job at Willison Concrete fell through in early August, after her separation from Al's Corner Oil Co., because of a government contract issue. She has other wages in the base period from part-time employment at Casey's. Those wages have been deleted because of prior separation decisions.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes the claimant voluntarily quit the employment without good cause attributable to the employer, has not requalified, and is not otherwise monetarily eligible for 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(13) 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:

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

Iowa Code § 96.5-1-g 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. But the individual shall not be disqualified if the department finds that:

g. The individual left work voluntarily without good cause attributable to the employer under circumstances which did or would disqualify the individual for benefits, except as provided in paragraph "a" of this subsection but, subsequent to the leaving, the individual worked in and was paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

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.

Inasmuch as the claimant quit because of not getting a raise and declined to stay even after the employer offered her a raise, the separation is disqualifying. Since she had not yet obtained the other potential employment until after the resignation notice was given, she is not eligible pursuant to Iowa Code § 96.5(1)a. Furthermore, since she has not requalified for benefits since the separation and is not otherwise monetarily eligible according to base period wages, benefits are denied until she requalifies and is otherwise eligible for benefits.

DECISION:

The October 15, 2013, (reference 02), decision is modified without change in effect. The claimant voluntarily quit the employment without good cause attributable to the employer, has not requalified for benefits, and is not otherwise monetarily eligible. Benefits are withheld until such time as she works in and has been paid wages equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/css