

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KIMBERLY A SELKEN
Claimant

APPEAL NO. 08A-UI-04149-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

GOODWILL INDUSTRIES OF NE IOWA INC
Employer

**OC: 03/30/08 R: 04
Claimant: Appellant (4-R)**

Section 96.5-1 – Voluntary Quit
871 IAC 24.22(2)f – Part-Time Workers

STATEMENT OF THE CASE:

Kimberly Selken filed an appeal from a representative's decision dated April 24, 2008, reference 01, which denied benefits based upon her separation from Goodwill Industries of Northeast Iowa, Inc. After due notice was issued, a hearing was held by telephone on May 13, 2008. The claimant participated personally. The employer elected not to participate, but to rest on previous information provided.

ISSUE:

The issue in this matter is whether the claimant quit for good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered all the evidence in the record, finds: The claimant worked for this employer from November 19, 2007, until February 14, 2008, when she voluntarily quit due to personal responsibilities. Ms. Selken was employed on a part-time basis and was paid by the hour. At the time Ms. Selken left her part-time employment with Goodwill Industries, she continued in her full-time employment with Eagle Window and Door Company. Work continued to be available to the claimant with Goodwill Industries at the time that she chose to leave.

REASONING AND CONCLUSIONS OF LAW:

The question before the administrative law judge is whether the evidence establishes that the claimant left employment with good cause for reasons that are attributable to the employer. It does not.

The evidence in the record establishes that Ms. Selken left her employment with Goodwill Industries for personal reasons related to the care of her husband, who was ill. Work continued to be available to the claimant at the time of her leaving. The employer did not cause the claimant to leave her employment.

871 IAC 24.25(23) 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:

(23) The claimant left voluntarily due to family responsibilities or serious family needs.

871 IAC 24.22(2)f provides:

Benefits eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

f. Part-time worker, student--other. Part-time worker shall mean any individual who has been in the employ of an employing unit and has established a pattern of part-time regular employment which is subject to the employment security tax, and has accrued wage credits while working in a part-time job. If such part-time worker becomes separated from this employment for no disqualifiable reason, and providing such worker has reasonable expectation of securing other employment during the same hours and for the same number of hours worked, no disqualification shall be imposed under Iowa Code section 96.4(3). In other words, if an individual is available to the same degree and to the same extent as when the wage credits were accrued, the individual meets the eligibility requirements of the law.

For the reasons stated herein, the administrative law judge concludes that the claimant voluntarily quit her employment with Goodwill Industries for reasons not attributable to the employer. Ms. Selken is not eligible for benefits based upon wage credits from this part-time employment until she has earned ten times her weekly benefit amount.

DECISION:

The representative's decision dated April 24, 2008, reference 01, is modified. The claimant voluntarily quit her part-time employment with Goodwill Industries of Northeast Iowa, Inc., for no good cause attributable to the employer. Wage credits earned in the part-time employment may not be used on her claim until such time as she had worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she satisfies all other conditions of eligibility. This matter is remanded to Claims for a determination as to whether the claimant has sufficient other wage credits on which to base a claim for benefits.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

kjw/kjw