

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

PATRICIA A SCHMITZ
Claimant

APPEAL NO: 11A-UI-13728-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

KPTOO INC / MCDONALD'S
Employer

OC: 09/25/11
Claimant: Appellant (5)

Section 96.5-1 - Voluntary Quit
871 IAC 24.27 - Voluntary Quit of Part-Time Job

STATEMENT OF THE CASE:

Patricia A. Schmitz (claimant) appealed an unemployment insurance decision dated October 14, 2011, (reference 03), that concluded she was not eligible after a separation from employment from KPToo, Inc. / McDonald's (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on November 14, 2011. The claimant participated in the hearing. Peggy Keairns appeared on the employer's behalf. Administrative notice is being taken of the Agency's wage records. If either party objects to the use of the Agency's wage records, the objection must be made in writing within seven calendar days of the date of this decision. 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.

FINDINGS OF FACT:

The claimant worked part-time approximately 15 hours per week for the employer as a part time crew member. She normally worked Tuesday, Wednesday, and Thursday from 6:00 a.m. to 11:00 a.m. Her last day of actual work was August 24, 2011. She had been allowed to take time off from August 25 through September 1, but was scheduled to return for work on September 6. She voluntarily quit the employment on September 5. She had already planned to quit as of about September 8 because she was enrolling in a truck driving school scheduled to begin on September 12, which would go from 8:00 a.m. to 5:00 p.m., Monday through Saturday. She proceeded to quit on September 5 because of some family problems.

The claimant filed a new claim for unemployment insurance benefits with an effective date of September 25, 2011. The employer paid the claimant \$1,564.00 in wages during the third quarter of 2010, which when combined with the wages from another employer was the claimant's highest quarter of earnings during her base period. Her weekly benefit amount was determined to be \$254.00, based on her wages in the third quarter of 2010.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant is disqualified from receiving unemployment insurance benefits because she voluntarily quit employment without good cause attributable to the employer. Rule 871 IAC 24.25 provides that, 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. A voluntary leaving of employment requires an intention to terminate the employment relationship and an action to carry out that intent. Bartelt v. Employment Appeal Board, 494 N.W.2d 684 (Iowa 1993); Wills v. Employment Appeal Board, 447 N.W.2d 137, 138 (Iowa 1989). The claimant did express or exhibit the intent to cease working for the employer and did act to carry it out.

The claimant has the burden of proving that the voluntary quit was for a good cause that would not disqualify her. Iowa Code § 96.6-2. Quitting because of family problems or in order to attend school, even though for good personal reasons, would not be reasons attributable to the employer. 871 IAC 24.25(23), (26). The claimant has not satisfied her burden. The claimant voluntarily quit employment without good cause attributable to the employer.

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 job with this employer, however, was part-time, and the claimant has sufficient wages from other employers to qualify to receive unemployment insurance benefits if she was otherwise eligible. The employer's account will not be subject to charge for benefits that might be paid to the claimant. However, the administrative law judge notes that the claimant is not otherwise eligible, due to another determination, affirmed in 11A-UI-13727-DT, that the claimant's separation from her full-time employer was disqualifying. As the separations occurred at approximately the same time, at such point that the claimant requalifies by earning ten times her weekly benefit amount after her separation from her full-time employer, she will also have requalified with regard to the employment with this part-time employer.

DECISION:

The unemployment insurance decision dated October 14, 2011 (reference 03), is modified with no effect on the parties. The claimant would not be totally disqualified and the employer's account is not subject to charge, because the claimant voluntarily quit part-time employment without good cause attributable to the employer, if the claimant were otherwise eligible based upon her full-time employment. However, she is not otherwise eligible.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/kjw