

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TONYA JONES
Claimant

APPEAL NO. 12A-UI-06694-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CBOCS INC
Employer

OC: 04/08/12
Claimant: Appellant (4-R)

Iowa Code Section 96.5(1) – Voluntary Quit
871 IAC 24.27 – Voluntary Quit of Part-time Employment

STATEMENT OF THE CASE:

Tonya Jones filed a timely appeal from the June 1, 2012, reference 04, decision that denied benefits. After due notice was issued, a hearing was held on June 28, 2012. Ms. Jones participated. Terry Stonehocker, General Manager, represented the employer.

ISSUE:

Whether Ms. Jones' voluntary quit was for good cause attributable to the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Tonya Jones was employed by CBOCS, Inc., d/b/a Cracker Barrel, as a part-time server from October 2011 until March 8, 2012, when she voluntarily quit. Ms. Jones generally worked afternoons and evenings on Friday through Sunday. Ms. Jones voluntarily quit the employment because her husband had obtained new employment and her husband's work hours conflicted with Ms. Jones' work hours at Cracker Barrel. This is the reason Ms. Jones gave to the employer as the basis for her voluntarily quit. Ms. Jones gave the employer two weeks' notice of her quit and worked to the end of the notice period before separating from the employment.

In January 2012, Ms. Jones had started a full-time work assignment through Palmer Consulting. The hours of that employment were 8:00 a.m. to 4:30 p.m., Monday through Friday. Ms. Jones continued with both employments until her husband's work hours made it necessary for her to leave the employment at Cracker Barrel.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5(1)(a) provides as follows:

Causes for disqualification.

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:

a. The individual left employment in good faith for the sole purpose of accepting other or better employment, which the individual did accept, and the individual performed services in the new employment. Benefits relating to wage credits earned with the employer that the individual has left shall be charged to the unemployment compensation fund. This paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 698, 612 (Iowa 1980) and Peck v. EAB, 492 N.W.2d 438 (Iowa App. 1992). 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. See 871 IAC 24.25.

An individual who voluntarily quits part-time employment without good cause attributable to the employer and who has not re-qualified for benefits by earning ten times her weekly benefit amount in wages for insured employment, but who nonetheless has sufficient other wage credits to be eligible for benefits may receive reduced benefits based on the other base period wages. See 871 IAC 24.27.

The weight of the evidence establishes that Ms. Jones voluntarily quit the part-time employment at Cracker Barrel for personal reasons and not for good cause attributable to that employer. The evidence fails to establish a quit to accept other employment. Ms. Jones had accepted the other employment two months earlier. It was not the new employment that prompted the quit. Instead, it was the conflict with Ms. Jones' husband's work hours that prompted the quit. The quit was without good cause attributable to CBOCS, Inc. Accordingly, Ms. Jones is disqualified for benefits *based on base period wage credits from the employment with Cracker Barrel* until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount after the March 8, 2012 separation. CBOC, Inc.'s account shall not be charged for benefits paid to Ms. Jones. Because the quit was from part-time employment, Ms. Jones remains eligible for reduced benefits, based on base period wage credits from employers other than CBOCS, Inc. Ms. Jones would have to meet all other eligibility requirements.

DECISION:

The Agency representative's June 1, 2012, reference 04, decision is modified as follows. The claimant voluntarily quit the part-time employment at Cracker Barrel without good cause attributable to that employer. The claimant is disqualified for benefits *based on base period wage credits from the employment with Cracker Barrel* until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount after the March 8, 2012 separation. CBOC, Inc.'s account shall not be charged for benefits paid to the claimant. The claimant remains eligible for reduced benefits, based on base period wage credits from employers other than CBOCS, Inc., provided she meets all other eligibility requirements.

This matter is remanded to the Claims Division for redetermination of the claimant's eligibility for reduced benefits.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/pjs