

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MELISSA L UPCHURCH
Claimant

APPEAL NO: 11A-UI-09622-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MIDWEST JANITORIAL SERVICE INC
Employer

OC: 12/12/10
Claimant: Appellant (4)

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

STATEMENT OF THE CASE:

Melissa L. Upchurch appealed an unemployment insurance decision dated July 15, 2010, (reference 04), that concluded she was not eligible after a separation from employment from Midwest Janitorial Service, Inc. (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on December 9, 2011. The claimant participated in the hearing. Brad Wilhelm appeared on the employer's behalf. Susan Tyrell served as interpreter. Administrative notice is being taken of the Agency's wage records. 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.

ISSUES:

Whether the claimant voluntarily quit part-time employment with good cause attributable to the employer.

FINDINGS OF FACT:

The claimant worked part-time approximately 15 to 18 hours per week for the employer as a part-time custodian from January 17, 2011, to March 1, 2011. She voluntarily quit employment at that time. Her reason for quitting was because an employee of the employer's business client repeatedly complained that she did not think the claimant was doing a good enough job. The employer was not dissatisfied with the claimant's job performance, and her job was not in jeopardy; but, because the claimant felt the business client's employee was picking on her, she decided to quit. The employer attempted to discuss the situation with the claimant, but the claimant did not follow up on that opportunity with the employer.

The claimant filed a claim for unemployment insurance benefits with an effective date of December 12, 2010. Her base period was established as being from the third quarter of 2009 through the second quarter of 2010. The claimant's highest quarter of earnings during his base period was the third quarter of 2009, which did not include any wages from the employer. Her weekly benefit amount was determined to be \$133.00, based on her wages in the second quarter of 2010.

After March 1 the claimant has had employment with other employers. The administrative law judge notes that on December 9, 2011 another representative's decision was issued (reference 05) concluding that the claimant has earned and been paid ten times her weekly benefit amount since the ending of the employment with the employer. The claimant had been paid these requalifying wages by July 1, 2011.

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 24.27 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 claimant voluntarily quit employment without good cause attributable to the employer. The job, however, was part-time, and the claimant has sufficient wages from other employers to qualify to receive unemployment insurance benefits under her 2010 claim year. As of July 1, 2011, the claimant has requalified by earning ten times her weekly benefit amount, so as of that date the wage credits earned with the employer can be used to determine the claimant's benefit eligibility, if necessary. The employer's account will not be subject to charge for benefits paid to the claimant.

DECISION:

The unemployment insurance decision dated July 15, 2011 (reference 04), is modified in favor of the claimant. The claimant is not 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. As of July 1, 2011, she has requalified for benefits since the separation. Benefits are allowed, provided the claimant is otherwise eligible. The account of the employer shall not be charged.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/kjw