

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

ROCHELLE L SPARKS
Claimant

MIDWEST JANITORIAL SERVICE INC
Employer

APPEAL 15A-UI-09360-JCT
ADMINISTRATIVE LAW JUDGE
DECISION

OC: 07/26/15
Claimant: Appellant (4)

Iowa Code § 96.5(1)a – Voluntary Quitting/Other Employment

STATEMENT OF THE CASE:

The claimant filed an appeal from the August 14, 2015, (reference 02) unemployment insurance decision that denied benefits based upon separation. The parties were properly notified about the hearing. A telephone hearing was held on September 4, 2015. The claimant participated personally. The employer participated through Michael Gilliland, Branch Manager. No documents were offered or admitted into evidence.

ISSUE:

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

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed part time as a janitor and was separated from employment on June 8, 2015, when she resigned without notice. Continuing work was available.

The claimant was working for this employer and also self-employed. Due to changes in the claimant's self-employment, she needed to seek additional work, and accepted a full-time retail position as an assistant manager for the Four Seasons. Consequently, her shift would no longer allow her to have two jobs, and she resigned from this employer.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left the employment to accept employment elsewhere.

Iowa Code § 96.5(1)a 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:

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 § 96.8, subsection 5.

Iowa Admin. Code r. 871-23.43(5) provides:

(5) Sole purpose. The claimant shall be eligible for benefits even though the claimant voluntarily quit if the claimant left for the sole purpose of accepting an offer of other or better employment, which the claimant did accept, and from which the claimant is separated, before or after having started the new employment. No charge shall accrue to the account of the former voluntarily quit employer.

Even though the separation was without good cause attributable to the employer and would, standing alone, disqualify the claimant from receiving benefits, the claimant did leave in order to accept other employment and did perform services for the subsequent employer. Accordingly, benefits are allowed and the account of this employer shall not be charged.

DECISION:

The August 14, 2015, (reference 02) decision is modified in favor of the appellant. The claimant voluntarily left the employment in order to accept other employment. Benefits are allowed, provided the claimant is otherwise eligible. The account of this employer shall not be charged.

Jennifer L. Coe
Administrative Law Judge

Decision Dated and Mailed

jlc/css