

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MARIA N FREDRICKSON**

Claimant

**APPEAL NO: 09A-UI-04846-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**SOUTHWEST IOWA EGG COOPERATIVE**

Employer

**OC: 09/28/08**

**Claimant: Appellant (1/R)**

Section 96.5-3-a – Refusal to Accept Suitable Work

Section 96.5-1 – Voluntary Quit

**STATEMENT OF THE CASE:**

Maria N. Fredrickson (claimant) appealed a representative's March 18, 2009 decision (reference 01) that concluded she was not qualified to receive benefits as of September 28, 2008, because she refused to accept suitable work from Southwest Iowa Egg Cooperative (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on April 15, 2009. The claimant participated in the hearing. Jo Ann Poepppe, a former bookkeeper for P & W Egg Company LC, and Rich Hall, the general manager for the employer, appeared on the employer's behalf. 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:**

Did the claimant refuse the employer's offer of suitable work?

Did the claimant voluntarily quit her employment for reasons that do not qualify her to receive benefits, or did the employer discharge her for work-connected misconduct?

**FINDINGS OF FACT:**

P & W Egg Company LC was owned and operated by the claimant's family. She worked approximately three years for the P & W Egg Company. Effective September 28, 2008, the employer purchased P & W Egg Company LC. Along with the sale of the business, P & W Egg Company's unemployment insurance account was transferred to the employer, the successor employer.

On September 29, 2009, the employer told all P & W Egg employees their employment would continue at the same hours and wages as they had with P & W Egg Company. The employer asked all employees, including the claimant, to complete an employment application and they were enrolled in the employer's payroll system so they would be paid on October 1 for work performed on September 30, 2008.

The claimant's mother, the former manager of P & W Egg Company LC, told the claimant that if she worked for the employer she would not work as many hours as she had when she worked for P & W Egg Company. When the claimant worked for P & W Egg Company, she was scheduled to work full time but averaged 18 to 23.5 hours of work a week. The employer offered the claimant full time work and agreed to pay her the same wages, \$9.00 an hour.

After the claimant completed the employer's paperwork on September 29, the employer understood she would continue working for the employer. The claimant did not report to work on September 30. The claimant did not report to work again or perform any work for the employer.

Since September 28, 2008, the claimant has filed for and received regular unemployment insurance benefits and Emergency Unemployment Compensation benefits.

#### **REASONING AND CONCLUSIONS OF LAW:**

Since the employer is the successor employer, P & W Egg Company's unemployment insurance account was transferred to the employer and the claimant's employment continued after the sale of the business. She was not laid off from work effective September 28, 2008. There was no separation from employment on September 28, 2008. The claimant's employment from 2005 to September 30, 2008, should be treated as employment by one employing unit, Southwest Iowa Egg Cooperative, the successor employer.

Since the claimant's employment continued after the sale of her family's business, her employment separation can be treated either as a refusal of suitable work or as a voluntary quit situation. A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quit employment without good cause attributable to the employer, Iowa Code § 96.5-1, or refuses an offer of suitable work. Iowa Code § 96.5-3-a. In either case, the claimant is disqualified from receiving benefits as of September 28, 2008.

Under a voluntarily quit situation, the claimant has the burden to establish she quit for reasons that qualify her to receive benefits. Iowa Code § 96.6-2. The law presumes a claimant quits with good cause when she leaves because there has been a substantial change in her employment. 871 IAC 24.26(1). The claimant asserted she would be working substantially fewer hours for the employer than she had before. This is based on her mother's statement, the former manager of P & W Egg Company, and because the claimant's sister initially worked substantially fewer hours than she had before. The employer explained that the claimant's sister initially had problems accepting the sale of the family's business and needed time to sort through the emotions of this sale. The employer worked with the claimant's sister when she took time off to deal with sale of the family's business. After the claimant's sister worked through her issues, she has worked full-time for the employer. The facts do not support the claimant's assertion that the employer substantially changed or would change her employment. Therefore, she quit by failing to return to work and did not establish good cause for quitting.

The same analysis can be used to determine the claimant refused an offer of work by the employer. Again, the employer told the claimant she would be working full time at the same job she had been doing and at the same wage, \$9.00 an hour. The claimant declined to continue her employment with the new business owner, the employer. The claimant is disqualified from receiving benefits as of September 28, 2008, under either analysis.

The issue of overpayment is remanded to Claims Section to determine the amount the claimant has been overpaid in regular unemployment insurance benefits and Emergency Unemployment Compensation Benefits.

(In her appeal letter the claimant questioned why she was being held ineligible in March when P & W Egg Company had not protested her claim for benefits. While P & W Egg Company did not protest her claim, this business entity should have forwarded the notice of claim to the employer because P & W Egg Company's unemployment insurance account was transferred to the employer. As a result, P & W Egg Company had no legal standing to decide whether the claimant was or was not qualified to receive benefits as of September 28, 2008.)

**DECISION:**

The representative's March 18, 2009 decision (reference 01) is affirmed. The claimant refused an offer of suitable work without good cause and is disqualified from receiving benefits as of September 28, 2008. In the alternative, the claimant voluntarily quit her employment without good cause and is disqualified from receiving benefits as of September 28, 2008. This disqualification continues until she has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The employer's account will not be charged. The issue of overpayment is remanded to the Claims Section to determine the amount the claimant has been overpaid in regular unemployment insurance benefits and Emergency Unemployment Compensation Benefits.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/css