

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

LINDA S PIRA
Claimant

ACOSTA INC
Employer

APPEAL 20A-UI-00187-DB-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 12/02/18
Claimant: Respondent (4)**

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Admin. Code r. 871-24.28(5) – Voluntary Quitting for Other Employment
Iowa Admin. Code r. 871-23.43 – Charging of Benefits to Employer Accounts

STATEMENT OF THE CASE:

The employer/appellant filed an appeal from the December 26, 2019 (reference 08) unemployment insurance decision that found claimant was eligible for benefits due to her voluntarily quitting work because of a change of contract of hire. The parties were properly notified about the hearing. A telephone hearing was held on January 28, 2020. This hearing was consolidated with Appeal 20A-UI-00188-DB-T. Claimant, Linda S. Pira, participated personally. Employer, Acosta Inc., was represented by Sam Krauss and participated through witness Christine Baizley. Employer's Exhibit 1 was admitted. The administrative law judge took official notice of the claimant's unemployment insurance benefits records.

ISSUES:

Did claimant voluntarily quit the employment with good cause attributable to employer?
Did the claimant voluntarily quit to accept other or better employment?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began her employment with this employer in October of 2013 as a full-time territory manager. Her normal working hours at that time were Monday through Friday from 8:00 a.m. to 5:00 p.m. Her job duties included sales and marketing.

In February of 2019, claimant was notified that her hours were going to be reduced. She began working a part-time schedule that included hours on Tuesday, Wednesday, and Thursday each week for a total of 22 hours per week. She started working part-time at Retail Services in September of 2018 to supplement the hours she lost with this employer and was working 10 hours per week at Retail Services.

On July 19, 2019, claimant received notification that her hours with this employer were going to be cut again. Due to a miscommunication, she believed her hours were going to be reduced to 16 hours per week but she actually went from 22 hours per week to 21 hours per week.

Claimant was offered a position with Retail Services that she could work 32 hours per week with that employer once she quit working for this employer. Claimant testified that this was better employment because she would only be working for one employer instead of handling two separate schedules. She would also be working a higher total number of hours with Retail Services instead of working less hours for two separate employers.

On August 8, 2019, claimant emailed her supervisor, Christine Baizley, that she was quitting in order to accept additional employment with Retail Services. Claimant accepted additional employment with Retail Services after quitting her employment with this employer. Claimant's administrative records establish she was then separated from Retail Services in October of 2019.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left employment to accept other employment elsewhere. Benefits are allowed, provided the claimant is otherwise eligible. The employer's account shall not be subject to charges.

Iowa Code section 96.5(1)a provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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.

Iowa Admin. Code r. 871-24.28(5) provides:

Voluntary quit requalifications and previously adjudicated voluntary quit issues.

(5) 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. The employment does not have to be covered employment and does not include self-employment.

(emphasis added).

Iowa Admin. Code r. 871-23.43 provides:

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.**

(emphasis added).

Claimant's decision to quit was in good faith and for the sole purpose of accepting better employment. The better employment included an overall increased number of hours per week rather than continuing to work for two employers for less hours. She did accept this offer from Retail Services and performed services in the new employment. This separation from this employer is not disqualifying and this employer's account shall not be subject to charges.

DECISION:

The December 26, 2019 (reference 08) unemployment insurance decision is modified in favor of the appellant. The claimant voluntarily left the employment in order to accept other or better employment. The separation from employment with this employer is not disqualifying and the claimant is eligible for benefits, provided she meets all other eligibility requirements. The employer's account (account number 527860) shall not be charged for benefits paid.

Dawn Boucher
Administrative Law Judge

Decision Dated and Mailed

db/scn