

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CAMELIA GIVENS

Claimant

APPEAL NO. 06A-UI-11767-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

PARCO LTD

**DBA WENDY'S OLD FASHIONED
HAMBURGERS**

Employer

**OC: 10-29-06 R: 03
Claimant: Respondent (4)**

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

STATEMENT OF THE CASE:

Parco, Ltd., doing business as Wendy's Old Fashioned Hamburgers, filed a timely appeal from an unemployment insurance decision dated December 5, 2006, reference 03, that allowed benefits to Camelia Givens. After due notice was issued, a telephone hearing was held December 21, 2006 with General Manager Tiffany Stickley participating for the employer. Exhibit One was admitted into evidence. The claimant did not provide a telephone number at which she could be contacted.

ISSUES:

Did the claimant leave work with good cause attributable to the employer?
Did the claimant voluntarily leave part-time employment?

FINDINGS OF FACT:

Having heard the testimony of the witness and having examined all of the evidence in the record, the administrative law judge finds: Camelia Givens was hired to be a part-time crew member at Wendy's Old Fashioned Hamburgers on August 25, 2006. She last worked on October 4, 2006. She was absent without contact on October 6, 2006. She called the employer on October 7, 2006 to inquire if she still had a job. She was told that she would receive a write-up and that she needed to speak with General Manager Tiffany Stickley. Ms. Givens, who was also scheduled to work on October 7, and October 8, 2006 did not report to work or contact the employer thereafter. When she was hired she was advised of a company policy that provides that an individual who is absent for three days without contact is considered to have left work voluntarily.

Ms. Givens filed a claim for unemployment insurance benefits in the fourth quarter of 2006. She is monetarily eligible for benefits. Her wages from this employer were not used in computing her weekly and maximum benefit amounts.

REASONING AND CONCLUSIONS OF LAW:

The first question is whether the claimant left work with good cause attributable to the employer. She did not.

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.

The evidence establishes that the claimant missed three days of work without notifying the employer that she intended to be gone. The evidence also establishes a company policy providing that a separation under such circumstances would be considered a voluntarily quit. A provision of the Iowa Administrative Code, 871 IAC 24.25(4), provides that such a separation is deemed to be a voluntary quit without good cause attributable to the employer.

The remaining question concerns the consequences for unemployment insurance benefits of this separation. Since the separation was a quit without good cause attributable to the employer, Parco Ltd. will not be charged with benefits paid to the claimant. On the other hand, since this was a resignation from part-time employment and the claimant is monetarily eligible for unemployment insurance benefits, even without considering these wages, no disqualification is imposed. The claimant may continue to receive unemployment insurance benefits, if she is otherwise eligible. However, before she may use wages from this employment in computing future benefits, she must requalify by earning ten times her weekly benefit amount in wages for insured work with subsequent employers. See 871 IAC 24.27.

DECISION:

The unemployment insurance decision dated December 5, 2006, reference 03, is modified. The claimant is entitled to receive unemployment insurance benefits, provided she is otherwise eligible. No benefits shall be charged to the account of this employer. Before the claimant may use wages from this employer in computing future unemployment insurance benefits, she must requalify by earning ten times her weekly benefit amount in wages for insured work with subsequent employers.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs