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

SAVANNA RAMON
Claimant

APPEAL NO: 10A-UI-12712-BT

ADMINISTRATIVE LAW JUDGE
DECISION

THE BUCKLE INC
Employer

OC: 08/08/07
Claimant: Appellant (1/R)

Iowa Code § 96.5-1 - Voluntary Quit
871 IAC 24.27 - Voluntary Quit of Part-Time Employment

STATEMENT OF THE CASE:

Savanna Ramon (claimant) appealed an unemployment insurance decision dated September 3, 2010, reference 01, which held that she was not eligible for unemployment insurance benefits because she voluntarily quit her employment with The Buckle, Inc. (employer) without good cause attributable to the employer. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on October 28, 2010. The claimant participated in the hearing. The employer participated through Store Manager Kimberly Brandau. 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.

ISSUE:

The issue is whether the claimant's voluntary separation from her part-time employment qualifies her to receive unemployment insurance benefits.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was employed as a part-time sales associate on July 22, 2009. She was not guaranteed a minimum number of hours at the time of hire. The employer placed her on the schedule a couple times in May 2010 but she received no hours in June 2010. The manager at the time had to use her budget hours so was scheduling the full-time employees first. Additionally, hours were based on productivity and the claimant's productivity was low so she was not given a priority with regard to hours. The claimant is going to school full-time so her availability is somewhat limited.

The claimant had taken vacation and she called Kimberly Brandau, the new store manager, on July 12, 2010 to ask about her hours. Ms. Brandau advised the claimant that she was not on the schedule and the claimant said that was good since she was still on vacation. Ms. Brandau told the claimant to come in and talk to her about her schedule when she returned from vacation and the claimant never did. The claimant testified that she never contacted the employer

because there was so much drama. The employer considered that the claimant voluntarily quit since she never returned.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the reasons for the claimant's separation from employment qualify her to receive unemployment insurance benefits.

Iowa Code § 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 failed to return to the employer to discuss her hours and was considered to have voluntarily quit her employment. She testified that she did not call the store manager because there was "too much drama." The claimant has the burden of proving that the voluntary quit was for a good reason that would not disqualify her. Iowa Code § 96.6-2. She has not met that burden and does not qualify for benefits from this employer.

However, an individual who quits part-time employment without good cause, yet is otherwise monetarily eligible based on wages paid by other base-period employers, shall not be disqualified for voluntarily quitting the part-time employment. Benefit payments shall not be based on wages paid by the part-time employer and charges shall not be assessed against the part-time employer's account. Once the individual has met the requalification requirements, the wages paid from the part-time employment can be used for benefit payment purposes. 871 IAC 24.27.

Based on this regulation, this matter is remanded to the Claims Section to determine whether the claimant is monetarily eligible to receive unemployment insurance benefits when the wage credits the claimant earned while working for the employer are not used in determining the claimant's monetary eligibility or her maximum weekly benefit amount.

DECISION:

The unemployment insurance decision dated September 3, 2010, reference 01, is affirmed. The claimant voluntarily quit her part-time employment for disqualifying reasons. Therefore, the employer's account will not be charged. This matter is remanded to the Claims Section to determine whether the claimant is monetarily eligible to receive unemployment insurance benefits and to determine what her maximum weekly benefit amount is when the wage credits the claimant earned from the employer are not taken into consideration to determine these two issues.

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Susan D. Ackerman
Administrative Law Judge

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Decision Dated and Mailed

sda/pjs