

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DIANA L JOHNSON
Claimant

APPEAL NO: 10A-UI-09588-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**BURLINGTON AREA COMMUNITY
YMCA-YWCA INC**
Employer

OC: 07/05/09

Claimant: Appellant (4)

Section 96.5-1 - Voluntary Quit
871 IAC 24.27 - Voluntary Quit of Part-time Job

STATEMENT OF THE CASE:

Diana L. Johnson (claimant) appealed an unemployment insurance decision dated July 1, 2010, (reference 01), that concluded she was not eligible to receive unemployment insurance benefits after a separation from employment from Burlington Area Community YMCA-YWCA, Inc. (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on August 24, 2010. The claimant participated in the hearing. Deb Mulch appeared on the employer's behalf. Administrative notice is being taken of the Agency's wage records. If either party objects to the use of the Agency's wage records, the objection must be made in writing within seven calendar days of the date of this decision. 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.

FINDINGS OF FACT:

The claimant started working for the employer in about the fall of 2005, working part time, up to about 25 hours per week in the employer's before and after school child care program. Her position was an academic year position, although the employer is not an "educational institution." Her most recent position in the program was as site director. Starting in about January 2010, the claimant's schedule was to work about 18 hours per week, working both before and after school on Mondays and Fridays, and only after school on Tuesdays, Wednesdays, and Thursdays. This was because of commitments the claimant had to her primary employment, in which she had been employed since 1995.

The claimant's last day of work was June 11, 2010. The school year had ended on June 10, and June 11 was a scheduled follow-up day, but was the last day of the scheduled work term prior to the beginning of the fall term. Several weeks in advance of June 11 the claimant had advised her supervisor that she would not be returning for work in the fall, as her primary employer was requiring her to take some additional education at that point which would result in the claimant being unavailable for her hours with the employer. However, she did volunteer to assist as needed in the employer's summer child care program, which was separate from the academic year program in which she worked. The employer did not seek the claimant's

assistance in its summer program. The first day the claimant would have otherwise worked in her position had she not previously indicated she would not be returning was a training program conducted on August 16, 2010.

As she had for the past several summers, the claimant had filed a prior claim for unemployment insurance benefits with an effective date of July 5, 2009 and had received unemployment insurance benefits for the weeks in the summer 2009 in which she was not employed. The employer paid the claimant \$3,666.00 in wages during the fourth quarter of 2008, which when combined with the wages from other employers was the claimant's highest quarter of earnings during her base period for her July 5, 2009 claim year. Her weekly benefit amount for that year was determined to be \$388.00, based on her wages in the fourth quarter of 2008. Upon the expiration of that claim year, she filed an additional claim effective July 4, 2010. The employer paid the claimant \$3,060.00 in wages during the first quarter of 2010, which when combined with the wages from other employers was the claimant's highest quarter of earnings during her base period for her July 4, 2010 claim year. Her weekly benefit amount for this year was determined to be \$390.00, based on her wages in the first quarter of 2010. The last week the claimant has made a claim for unemployment insurance benefits was the week ending July 24, 2010.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant is disqualified from receiving unemployment insurance benefits because she voluntarily quit employment without good cause attributable to the employer.

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 voluntarily quit employment without good cause attributable to the employer. The job, however, was part time, and the claimant has sufficient wages from other employers to

qualify to receive unemployment insurance benefits. Also, the effective date of the claimant's quit was not June 11, but rather was effective the week ending August 14, the last week before she would have returned to her position with the employer had she not indicated an intent not to return.

The employer's account will not be subject to charge for benefits paid to the claimant beginning August 15, 2010. If the claimant had claimed unemployment insurance benefits for any week beginning on or after this date, there would need to be a recalculation of the claimant's weekly benefit amount until the claimant had earned sufficient wages to requalify for benefits on the wages from the employer. However, since the claimant has not sought any benefits for any week on or after August 15, that issue is moot.

DECISION:

The unemployment insurance decision dated July 1, 2010 (reference 01), is modified in favor of the claimant. The claimant is not disqualified and the employer's account is not subject to charge because the claimant voluntarily quit part-time employment without good cause attributable to the employer; however, the effective date of the quit and the employer's relief from charges is August 15, 2010.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/pjs