





The record before the Employment Appeal Board is incomplete. Although the claimant mentioned prior full-time employment upon which she filed an original claim, there was no delving into the circumstances of that prior separation, or the possible separation from second part-time job.

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, decision of the job service representative, 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 account of the employer with which the individual requalified, transferred to the balancing account, or remain with the employer from which they were earned.

The court in Welch v. Iowa Department of Job Service, 421 N.W.2d 150 (Iowa App. 1988) held that a total disqualification could only result from quitting the primary or regular (full-time) employer. To excuse a claimant's full-time employer from which he was separated and not disqualified in the first place, would result in a windfall to that employer should the subsequent part-time employer be held liable for benefits after a claimant's subsequent separation.

As the Iowa Court of Appeals noted in Baker v. Employment Appeal Board, 551 N.W. 2d 646 (Iowa App. 1996), the administrative law judge has a heightened duty to develop the record from available evidence and testimony given the administrative law judge's presumed expertise. Since we have no way of knowing what effect any prior separations may have upon the claimant eligibility at this time, we remand this matter for further consideration with regard to the possible McCarthy-Welch issues.

**DECISION:**

The decision of the administrative law judge dated June 17, 2009 is not vacated. This matter is remanded to an administrative law judge in the Workforce Development Center, Appeals Section, for further development of the record consistent with this decision, unless otherwise already addressed. The administrative law judge shall conduct a hearing following due notice, if necessary. If a hearing is held, then the administrative law judge shall issue a decision which provides the parties appeal rights.

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John A. Peno

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Elizabeth L. Seiser

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Monique F. Kuester

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