

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DEREKA L WILLIAMS
Claimant

APPEAL NO. 15A-UI-03635-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

FOCUS SERVICES LLC
Employer

OC: 02/22/15
Claimant: Appellant (4)

Section 96.5(1)(a) – Voluntary Quit to Accept Other Employment

STATEMENT OF THE CASE:

Dereka Williams filed a timely appeal from the March 18, 2015, reference 02, decision that disqualified her for benefits and that relieved the employer of liability for benefits, based on an Agency conclusion that she had voluntarily quit on January 21, 2015 without good cause attributable to the employer. After due notice was issued, a hearing was held on April 20, 2015. Ms. Williams participated. Angie Pratt represented the employer. Exhibits One, Two, Three were received into evidence at the time of the hearing. The administrative law judge left the record open to the close of the business day on April 20, 2015 for the limited purpose of allowing the claimant to provide check stubs as proof for new employment with Liberty Tax. The claimant provided the check stubs and they were received into evidence as Exhibit C. The administrative law judge requested that the Appeals Section staff forward a copy to the employer in interest for its records.

ISSUE:

Whether the claimant's voluntary quit disqualifies her for benefits or relieves the employer of liability for benefits.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Dereka Williams has worked for Focus Services, L.L.C., during two distinct periods. The most recent period of employment began in April 2014 and ended on January 14, 2015, when Ms. Williams voluntarily quit to accept new employment at Liberty Tax. Ms. Williams was a full-time customer service representative at Focus Services. Ms. Williams had previously worked for Liberty Tax as a tax return preparer and desired to return to that employment because is offered better base pay and the opportunity for a better bonus. Ms. Williams expected the new employment to be full-time. Ms. Williams started her new employment with Liberty Tax on January 15, 2015. On January 5, 2015, Ms. Williams had spoken to a supervisor at Focus Services about the possibility of reducing her hours in that employment so that she could continue the employment. The part-time evening hours that Focus Services was willing to make available would not work for Ms. Williams in light of her new full-time employment and her family responsibilities.

REASONING AND CONCLUSIONS OF LAW:

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 698, 612 (Iowa 1980) and Peck v. EAB, 492 N.W.2d 438 (Iowa App. 1992). In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer. See 871 IAC 24.25.

Iowa Code section 96.5(1)(a) provides as follows:

Causes for disqualification.

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. 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.

[Emphasis added.]

The administrative law judge must follow the plain language of the statute.

The weight of the evidence in the record establishes that Ms. Williams voluntarily quit the employment at Focus Services without good cause attributable to that employer and that she quit for the sole purpose of accepting other employment. The evidence further indicates that Ms. Williams performed work for the new employer. Because the voluntary quit from Focus Services was without good cause attributable to that employer, Focus Services' account with Workforce Development will not be assessed for benefits paid to Ms. Williams. Because the quit was for the sole purpose of accepting new employment, and because Ms. Williams performed work for the new employer, her January 14, 2015 separation from Focus Services does not disqualify her for benefits. Ms. Williams is eligible for benefits, provided she meets all other eligibility requirements.

DECISION:

The March 18, 2015, reference 02, decision is modified as follows. The claimant voluntarily quit the employment effective January 14, 2015 without good cause attributable to the employer.

The employer's account will not be charged. The claimant quit the employment for the sole purpose of accepting new employment and performed work for the new employer. The January 14, 2015, separation does not disqualify the claimant for benefits. The claimant is eligible for benefits, provided she is otherwise eligible.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

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