

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DEBORA L HURLBUT
Claimant

APPEAL NO. 100-UI-07659-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

KWIK SHOP INC
Employer

OC: 01/03/10
Claimant: Respondent (4-R)

Iowa Code Section 96.5(1) – Voluntary Quit
871 IAC 24.27 – Voluntary Quit of Part-time Employment

STATEMENT OF THE CASE:

The employer filed a timely appeal from the February 16, 2010, reference 01, decision that allowed benefits and indicated the employer's account could be charged for benefits. After due notice was issued, a hearing was held on July 15, 2010. Claimant Debora Hurlbut did not respond to the hearing notice instructions to provide a telephone number for hearing and did not participate. Connie McMorrان, Store Manager represented the employer.

ISSUE:

Whether Ms. Hurlbut separated from the employment for a reason that disqualifies her for unemployment insurance benefits.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Debora Hurlbut was employed by Kwik Shop as a part-time clerk from July 28, 2009 until August 16, 2009 when she voluntarily quit. Ms. Hurlbut's immediate supervisor was store manager Connie McMorrان. Ms. Hurlbut told the employer that she needed to leave the employment because her husband had Crohn's disease, because she was having surgery, and because she needed to care for her husband and her two young children. The employer continued to have work available to Ms. Hurlbut.

REASONING AND CONCLUSIONS OF LAW:

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.

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.

When a person voluntarily quits employment due to family responsibilities or serious family needs, the quit is presumed to be without good cause attributable to the employer. See 871 IAC 24.25(23). The evidence in the record establishes a voluntary quit due to personal reasons and not for good cause attributable to the employer. Ms. Hurlbut is disqualified for benefits *based on wage credits earned through this employment* until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. The employer's account shall not be charged for benefits paid to Ms. Hurlbut. The claimant would remain eligible for reduced benefits, provided she meets all other eligibility requirements.

An individual who voluntarily quits part-time employment without good cause attributable to the employer and who has not re-qualified for benefits by earning ten times her weekly benefit amount in wages for insured employment, but who nonetheless has sufficient other wage credits to be eligible for benefits may receive reduced benefits based on the other base period wages. See 871 IAC 24.27.

This matter will be remanded to the Claims Division for redetermination of Ms. Hurlbut's eligibility for reduced unemployment insurance benefits based on base period wage credits earned from employment other than Kwik Shop, Inc. The redetermination of benefits may result in a determination that Ms. Hurlbut has been overpaid benefits.

DECISION:

The Agency representatives February 16, 2010, reference 01, decision is modified as follows. The claimant voluntarily quit the part-time employment without good cause attributable to the employer. The claimant is disqualified for benefits based on base period wage credits earned through this employment until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. The employer's account shall not be charged. The claimant would remain eligible for reduced benefits, provided she meets all other eligibility requirements.

This matter is remanded to the Claims Division for redetermination of the claimant's eligibility for reduced unemployment insurance benefits based on base period wage credits earned from employment other than Kwik Shop, Inc. The redetermination of benefits may result in a determination that the claimant has been overpaid benefits.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/css