

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MAYOM L JOK**  
Claimant

**APPEAL NO. 12A-UI-08378-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**HY-VEE INC**  
Employer

**OC: 06/10/12**  
**Claimant: Appellant (4-R)**

Section 96.5(1) – Voluntary Quit

**STATEMENT OF THE CASE:**

Mayom Jok filed a timely appeal from the June 10, 2012, reference 02, decision that denied benefits. After due notice was issued, a hearing was held on August 7, 2012. Mr. Jok participated. Sabrina Bentler of Corporate Cost Control represented the employer and presented testimony through Mike Mitchell, Night Stock Manager. Exhibits One through Four were received into evidence.

**ISSUE:**

Whether Mr. Jok separated from the employment for a reason that disqualifies him for unemployment insurance benefits.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Mayom Jok was employed by Hy-Vee during multiple distinct periods. The most recent period of employment began in April 2011. Mr. Jok last appeared and performed work for the employer on April 15, 2012. During the most recent period of employment, Mr. Jok was a *part-time* night stock clerk. After Mr. Jok worked his shift on April 15, 2012, he was absent without notifying the employer for his next four scheduled shifts. Those shifts were on April 21, 22, 28 and 29, 2012. If Mr. Jok needed to be absent from work, the employer's written policy required that he notify the employer in advance. Mr. Jok was aware of the policy. After Mr. Jok had been absent from four shifts without notifying the employer he contacted the employer for more work hours and was told the employer had no more work for him. Mr. Jok had been properly notified of his scheduled shifts through advance posting of the work schedule.

**REASONING AND CONCLUSIONS OF LAW:**

A discharge is a termination of employment initiated by the employer for such reasons as incompetence, violation of rules, dishonesty, laziness, absenteeism, insubordination, or failure to pass a probationary period. 871 IAC 24.1(113)(c). A quit is a separation initiated by the employee. 871 IAC 24.1(113)(b). 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.

Where an employee is absent from three shifts without notifying the employer in violation of company rule, the employee is presumed to have voluntarily quit without good cause attributable to the employer. See 871 IAC 24.25(4).

The weight of the evidence indicates that Mr. Jok last performed work for the employer on April 15, 2012, as documented by the employer. The weight of the evidence indicates that Mr. Jok then was absent from four shifts without notifying the employer. Only after that extended absence did the employer conclude Mr. Jok had separated from the employment. The employer reasonably concluded that Mr. Jok had demonstrated a voluntary quit through his failure to appear for four consecutive shifts without notifying the employer of his need to be absent.

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.

Mr. Jok voluntarily quit the part-time employment without good cause attributable to the employer. Accordingly, Mr. Jok is disqualified for benefits based on base period wages earned through the employment at Hy-Vee until he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. The employer's account shall not be charged for benefits paid to Mr. Jok.

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 his 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.

Because the employment was part time, Mr. Jok remains eligible for reduced benefits, based on base period wage credits from employers other than Hy-Vee, provided he meets all other eligibility requirements. This matter will be remanded to the Claims Division for determination of Mr. Jok's eligibility for reduced benefits.

#### **DECISION:**

The Agency representative's June 10, 2012, reference 02, 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 wages earned through the employment at Hy-Vee* until he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. The employer's account shall not be charged. The claimant remains eligible for reduced benefits, based on

base period wage credits from employers *other than Hy-Vee*, provided he meets all other eligibility requirements. This matter is remanded to the Claims Division for determination of the claimant's eligibility for reduced benefits.

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James E. Timberland  
Administrative Law Judge

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Decision Dated and Mailed

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