

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JEFFREY A WALKER
Claimant

APPEAL NO. 07A-UI-03389-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

RAYMOND NICHOLSON ET AL
RETAIL GROCERY INVENTORY SERVICES
Employer

OC: 11/05/06 R: 04
Claimant: Respondent (4)

Section 96.5-1 – Voluntary Quit
871 IAC 24.27 – Part-time Employment

STATEMENT OF THE CASE:

Retail Grocery Inventory Services filed a timely appeal from an unemployment insurance decision dated March 22, 2007, reference 08, that allowed benefits to Jeffrey A. Walker. After due notice was issued, a telephone hearing was held April 26, 2007 with District Manager Heather Ruddy participating for the employer. Mr. Walker provided a telephone number at which he could be contacted. When called at the time of the hearing, however, his phone was answered by a recording. The administrative law judge left the telephone number of the Appeals Section and instructions for the claimant to call immediately if he wished to participate. There was not further contact from the claimant. Employer Exhibit One was admitted into evidence.

ISSUE:

Did the claimant leave work with good cause attributable to the employer?

Is the claimant disqualified from receiving benefits at this time?

FINDINGS OF FACT:

Having heard the testimony of the witness and having examined all of the evidence in the record, the administrative law judge finds: Jeffrey A. Walker was a part-time auditor for Retail Grocery Inventory Services from September 22, 2006 until March 16, 2007. Mr. Walker was scheduled to work on March 6, March 11 and March 14, 2007. He failed to report to work or contact the employer on each of those days. As a part-time employee, he was not scheduled to work during this time except on those three days. The employer has a policy which provides that three days of absence without contact is considered to be a voluntary quit. Mr. Walker received a copy of that policy when he was hired in September of 2006.

Mr. Walker filed a claim for unemployment insurance benefits effective November 5, 2006. Wages paid by this employer were not used in computing his weekly and maximum benefit amounts.

REASONING AND CONCLUSIONS OF LAW:

The first question is whether the separation from employment was for cause attributable to the employer. It was not.

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.

The claimant has the burden of proof. See Iowa Code section 96.6-2. An individual who leaves work because of three days of absence without notice in violation of a company rule is considered to have left work without good cause attributable to the employer. See 871 IAC 24.25(4). The evidence in this record establishes that the employment ended under circumstances contemplated by the rule. Since the separation was without good cause attributable to the employer, benefits shall not be charged to the account of this employer.

The remaining question involves the separation disqualifying Mr. Walker for benefits. As noted in the findings of fact, the wages from this employer were not used in computing Mr. Walker's present benefits. The evidence also establishes that the employment was part-time, not full-time. A rule found at 871 IAC 24.27 of the Iowa Administrative Code applies in this circumstance. No disqualification of benefits is imposed on Mr. Walker. Nevertheless, before he can use wages from Retail Grocery Inventory Services for computing future unemployment insurance benefits, he must first work in and be paid wages for insured work equaling ten times his weekly benefit amount.

DECISION:

The unemployment insurance decision dated March 22, 2007, reference 08, is modified. The claimant voluntarily left part-time employment without good cause attributable to the employer. Since the wages from this employer have not been used in computing the claimant's present unemployment insurance benefits, he may continue to receive benefits, provided he is otherwise eligible. Before these wages may be used for computing future benefits, he must first work in and be paid wages for insured work equaling ten times his weekly benefit amount. Even if the claimant requalifies, no benefits from this employment shall be charged to the account of Retail Grocery Inventory Services.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

css/css