

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LORETTA C WELLENDORF
Claimant

APPEAL NO. 18A-UI-04178-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

PERKINS & MARIE CALLENDER'S LLC
Employer

OC: 03/11/18
Claimant: Appellant (4)

Iowa Code Section 96.5(1) – Voluntary Quit

Iowa Admin. Code r. 871-24.27 – Voluntary Quit of Part-time Employment

STATEMENT OF THE CASE:

Loretta Wellendorf filed a timely appeal from the March 28, 2018, reference 01, decision that disqualified her for benefits and that relieved the employer's account of liability for benefits, based on the Benefits Bureau deputy's conclusion that Ms. Wellendorf voluntarily quit on February 10, 2018 without good cause attributable to the employer. After due notice was issued, a hearing was held on April 27, 2018. Ms. Wellendorf participated. George Bracelin represented the employer.

ISSUE:

Whether Ms. Wellendorf separated from the employment for a reason that disqualifies her for unemployment insurance benefits or that relieves the employer's account of liability for benefits.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Loretta Wellendorf was employed by Perkins & Marie Callendar's L.L.C. (Perkins) as a part-time waitress at a Perkins restaurant on Euclid Avenue in Des Moines from September 2017 and last performed work for the employer sometime before November 27, 2017. Ms. Wellendorf began the part-time Perkin's employment to supplement her primary employment with MacCorp, Inc. Ms. Wellendorf took a leave of absence in connection with a need to address her husband's health condition and returned to work two more shifts after that. Thereafter, Ms. Wellendorf did not return to the employment. On November 27, 2017, George Bracelin became the General Manager at the Perkins restaurant. On November 28, 2017, Samantha Kingston, the General Manager who had hired Ms. Wellendorf, separated from the employer. Ms. Wellendorf never made contact with Mr. Bracelin about obtaining additional shift. On February 10, 2018, Mr. Bracelin deleted Ms. Wellendorf from the employer's payroll system. Mr. Bracelin had never met Ms. Wellendorf.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 96.5-1 provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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.

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 Iowa Administrative Code rule 871-24.27.

The evidence in the record establishes a voluntary quit from part-time supplement employment at Perkins without good cause attributable to Perkins. The weight of the evidence establishes that Ms. Wellendorf returned from her leave of absences, last performed work for the employer in November 2017, but thereafter did not return for additional work. Ms. Wellendorf is disqualified for benefits that are based on the Perkins wages until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount. Because the separation was from part-time employment, Ms. Wellendorf remains eligible for benefits based on base period wages credits from employers other than Perkins, provided she meets all other eligibility requirements. The employer account of Perkins shall not be charged.

DECISION:

The March 28, 2018, reference 01, decision is modified as follows. The claimant voluntary quit the part-time employment in November 2017 without good cause attributable to the employer. The claimant is disqualified for benefits that are based on the Perkins wages until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount. Because the separation was from part-time employment, the claimant remains eligible for benefits based on base period wages credits from employers other than Perkins, provided she meets all other eligibility requirements. The employer account of Perkins shall not be charged.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/scn