

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

YANARA VERZANI
Claimant

HY-VEE INC
Employer

APPEAL NO. 14A-UI-05202-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 04/20/14
Claimant: Appellant (4/R)**

Iowa Code § 96.5-1 - Voluntary Quit
871 IAC 24.27 - Voluntary Quit of Part-Time Employment

STATEMENT OF THE CASE:

Yanara Verzani (claimant) appealed an unemployment insurance decision dated May 13, 2014, (reference 02), which held that she was not eligible for unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on June 9, 2014. The claimant participated in the hearing. The employer participated through Steve Kleene, Kitchen Manager and Cathy Hood, Employer Representative.

ISSUE:

The issue is whether the claimant's voluntary separation from her part-time employment qualifies her to receive unemployment insurance benefits.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant most recently worked part-time in the kitchen from July 17, 2013, through her actual last day of work on January 31, 2014. She missed work on February 5, 2014, through February 7, 2014, due to illness. A manager called her and left a message that she needed to get a doctor's release before returning to work. The claimant missed work due to her son's illness and she sent a text message to manager Steve Kleene saying that she was not going to get a doctor's note for her son so she might as well quit.

The employer was aware that the claimant planned to move to California in March 2014. She admits she told Mr. Kleene that she was not going to get a doctor's note but denies telling him she was quitting. The claimant testified that she called in and learned she was not on the schedule so never called and/or returned to work after that. She was never told she was fired.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the reasons for the claimant's separation from employment qualify her to receive unemployment insurance benefits. She is not qualified to receive unemployment insurance benefits if she voluntarily quit without good cause attributable to the employer. Iowa Code § 96.5-1.

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980) and *Peck v. Employment Appeal Bd.*, 492 N.W.2d 438 (Iowa Ct. App. 1992). The claimant demonstrated her intent to quit and acted to carry it out by telling her supervisor that she quit. She further carried out that intent to quit by failing to call or return to work after February 7, 2014.

The claimant has the burden of proving that the voluntary quit was for a good reason that would not disqualify her. Iowa Code § 96.6-2. She has not met that burden and her separation from her part-time employer was disqualifying. Consequently, the employer's account is not subject to charge.

However, an individual who quits part-time employment without good cause, yet is otherwise monetarily eligible based on wages paid by other base-period employers, shall not be disqualified for voluntarily quitting the part-time employment. Benefit payments shall not be based on wages paid by the part-time employer and charges shall not be assessed against the part-time employer's account. Once the individual has met the requalification requirements, the wages paid from the part-time employment can be used for benefit payment purposes. 871 IAC-24.27.

Based on this regulation, this matter is remanded to the Claims Section to determine whether the claimant is monetarily eligible to receive unemployment insurance benefits when the wage credits the claimant earned while working for the employer are not used in determining the claimant's monetary eligibility or her maximum weekly benefit amount.

DECISION:

The unemployment insurance decision dated May 13, 2014, (reference 02), is modified in favor of the appellant. The claimant voluntarily quit her part-time employment for disqualifying reasons. Therefore, the employer's account will not be charged. This matter is remanded to the Claims Section to determine whether the claimant is monetarily eligible to receive unemployment insurance benefits and to determine what her maximum weekly benefit amount is when the wage credits the claimant earned from the employer are not taken into consideration to determine these two issues.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/can