

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

ANDREA L TIESKOTTER
409 W HAMILTON ST
NEW HAMPTON IA 50659-1625

SUPER8—NEW HAMPTON INC
825 S LINN AVE
PO BOX 249
NEW HAMPTON IA 50659

Appeal Number: 06A-UI-05880-DT
OC: 05/14/06 R: 03
Claimant: Appellant (4/R)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5-1 - Voluntary Quit
871 IAC 24.27 - Voluntary Quit of Part-time Job

STATEMENT OF THE CASE:

Andrea L. Tieskotter (claimant) appealed an unemployment insurance decision dated June 2, 2006, (reference 01), that concluded she was not eligible for unemployment insurance benefits after a separation from employment from Super8—New Hampton, Inc. (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on June 26, 2006. This appeal was consolidated for hearing with a related appeal, 06A-UI-05881-DT. The claimant participated in the hearing. Amy Neitzke appeared on the employer's behalf. Administrative notice is being taken of the Agency's wage records. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

FINDINGS OF FACT:

The claimant started working for the employer on or about June 30, 2003. She worked part-time as a desk clerk at the two hotel properties, Super8-New Hampton, Inc. and Southgate Inn, owned by the same owners. She had worked part-time (approximately 37 hours per week) until August 2005; in August 2005, the claimant started other full-time employment with Northeast Iowa Community Action as a Head Start program teacher. She therefore changed her schedule for the hotel employer to be 8 to 16 hours per week as a part-time night auditor and desk clerk, working an overnight shift on a rotating Friday, Saturday, Saturday schedule. Her last day of work was May 13, 2006. She submitted at least a two-week notice of resignation on or before April 29, 2006. She voluntarily quit her employment at the hotel properties because her full-time position had ended for the school year, and she wished to secure other full-time work during the summer.

The claimant filed a new claim for unemployment insurance benefits with an effective date of May 13, 2006. The employer paid the claimant \$688.00 in wages during the fourth quarter of 2005, which when combined with the wages from her full-time employer was the claimant's highest quarter of earnings during her base period. Her weekly benefit amount was determined to be \$269.00, based on her wages in the fourth quarter of 2005.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant is disqualified from receiving unemployment insurance benefits because she voluntarily quit employment without good cause attributable to the employer.

Iowa Code § 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.

871 IAC 24.27 provides:

Voluntary quit of part-time employment and requalification. An individual who voluntarily quits without good cause part-time employment and has not requalified for benefits following the voluntary quit of part-time employment, yet is otherwise monetarily eligible for benefits based on wages paid by the regular or other base period employers, shall not be disqualified for voluntarily quitting the part-time employment. The individual and the part-time employer which was voluntarily quit shall be notified on the Form 65-5323 or 60-0186, Unemployment Insurance Decision, that benefit payments shall not be made which are based on the wages paid by the part-time employer and benefit charges shall not be assessed against the part-time employer's account; however, once the individual has met the requalification requirements following the voluntary quit without good cause of the part-time employer, the wages paid in the part-time employment shall be available for benefit payment purposes. For benefit charging purposes and as determined by the applicable requalification requirements, the wages paid by the part-time employer shall be transferred to the balancing account.

The claimant voluntarily quit employment without good cause attributable to the employer. The job, however, was part-time, and the claimant may have sufficient wages from another employer

to qualify to receive unemployment insurance benefits. The employer's account will not be subject to charge for benefits paid to the claimant.

This matter is remanded to the Claims Section for a review of the claimant's eligibility for unemployment insurance benefits based on her base period wages from her full-time employment; this review should also consider whether she is eligible for benefits on those full-time wages as potentially an employee of a educational institution seeking benefits during the period between two successive academic years or terms. Iowa Code § 96.4-5-b; 871 IAC 24.52(7). If the claimant is eligible for benefits based on her full-time employment, the Agency shall recalculate the claimant's weekly benefit amount.

DECISION:

The unemployment insurance decision dated June 2, 2006 (reference 01), is modified in favor of the claimant. The claimant is not disqualified and the employer's account is not subject to charge because the claimant voluntarily quit part-time employment without good cause attributable to the employer. This matter is remanded to the Agency for a review of the claimant's eligibility based upon her full-time employment and any necessary recalculation of the claimant's weekly benefit amount.

ld/cs