

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LAERICA J JACKSON
Claimant

APPEAL NO. 15A-UI-03917-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

HY-VEE INC
Employer

OC: 12/07/14
Claimant: Respondent (4)

Iowa Code Section 96.5(1) – Voluntary Quit
871 IAC 24.27 – Voluntary Quit of Part-time Employment

STATEMENT OF THE CASE:

The employer filed a timely appeal from the March 19, 2015, reference 08, decision that allowed benefits to the claimant provided she was otherwise eligible and that held the employer's account could be charged for benefits, based on an Agency conclusion that the claimant had been discharged for no disqualifying reason on March 6, 2015. After due notice was issued, a hearing was held on May 7, 2015. Claimant Laerica Jackson participated. Julia Day from Corporate Cost Control represented the employer and presented testimony through Rachel Guy and Jon Evans. The administrative law judge took official notice of the Agency's record of benefits disbursed to the claimant and received Exhibits One and Two into evidence.

ISSUE:

Whether the claimant separated from the part-time employment for a reason that disqualifies her for benefits or that relieves the employer of liability for benefits.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Laerica Jackson was employed by Hy-Vee as a part-time night stocker from December 2014 until March 6, 2015, when she voluntarily quit in response to being reprimanded for a dress code violation. The employer intended to discharge Ms. Jackson during the meeting on March 6, 2015, but did not have an opportunity to communicate the discharge before Ms. Jackson announced that she was quitting the employment.

Ms. Jackson had established an original claim for benefits that was effective December 7, 2014, prior to commencing the employment with Hy-Vee. Ms. Jackson did not receive any unemployment insurance benefits until she established an additional claim for benefits that was effective March 8, 2015, in response to her separation from Hy-Vee. Ms. Jackson received \$550.00 in benefits for the two-week period of March 8-21, 2015. Hy-Vee is not a base period employer for purposes of the claim year that started for Ms. Jackson when she filed her original claim in December 2014. Accordingly, Hy-Vee was not charged for the benefits paid to Ms. Jackson in March 2015.

REASONING AND CONCLUSIONS OF LAW:

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.

Iowa Admin. Code r. 871-24.25(28) provides:

Voluntary quit without good cause. 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 from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(28) The claimant left after being reprimanded.

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 871 IAC 24.27.

The evidence in the record indicates that Ms. Jackson beat Hy-Vee to the punch on March 6, 2015, by voluntarily quitting in response to the dress code reprimand before the employer could notify her that she was discharged from the employment. Ms. Jackson's voluntary quit was without good cause attributable to the employer. Hy-Vee's employer account has not been charged for benefits paid to Ms. Jackson and will not be charged for benefits paid to Ms. Jackson. Because the employment was part-time, Ms. Jackson remains eligible for benefits provided she meets all other eligibility requirements. The minimal wages Ms. Jackson earned from her brief employment with Hy-Vee cannot be included in any future claim year unless and until Ms. Jackson earns 10 times her weekly benefit amount from new insured employment.

DECISION:

The March 19, 2015, reference 08, decision is modified as follows. The claimant voluntarily quit the part-time employment on March 6, 2015 without good cause attributable to the employer. The employer has not and will not be charged for benefits. The claimant remains eligible for benefits, provided she meets all other eligibility requirements. The Hy-Vee wages cannot be included in any future claim year unless and until Ms. Jackson earns 10 times her weekly benefit amount from new insured employment.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/pjs