

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**CALKINS, CLIFFORD, G**  
Claimant

**APPEAL NO. 12A-UI-08998-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**PILOT TRAVEL CENTERS LLC**  
Employer

**OC: 06/17/12**  
**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 July 18, 2012, reference 02, decision that allowed benefits. After due notice was issued, a hearing was held on August 20, 2012. Claimant did not respond to the hearing notice instructions to provide a telephone number for the hearing and did not participate. Greg Spurgeon represented the employer.

**ISSUE:**

Whether Mr. Calkins separated from the employment for a reason that disqualifies him for unemployment insurance benefits.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Clifford Calkins was employed by Pilot Travel Centers as a part-time maintenance employee from April 15, 2012 and last performed work for the employer on June 16, 2012. On June 13, 2012, Mr. Calkins gave the employer a two-week notice that he was quitting the employment because he had accepted a new job that paid better. The anticipated last day of employment was June 27, 2012. After Mr. Calkins worked on June 16, he was absent without notifying the employer on June 17 and June 18. When Mr. Calkins appeared for work on June 19, Greg Spurgeon, General Manager, told Mr. Calkins that in light of his two-week notice and his study or to appear for work for two consecutive shifts, the employer was ending employment at that time.

**REASONING AND CONCLUSIONS OF LAW:**

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.

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.

The weight of the evidence in the record establishes that Mr. Calkins voluntarily quit the part-time employment without good cause attributable to the employer effective June 16, 2012. While Mr. Calkins told the employer he was quitting to accept another job, Mr. Calkins has not presented any evidence to establish that he did in fact quit to accept other employment and did in fact perform work for the new employer. In light of the quit notice tendered on June 13, the employer reasonably concluded that Mr. Calkins had quit earlier than planned, when Mr. Calkins failed to appear for two consecutive shifts and did not notify the employer of his need to be absent.

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 his 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.

Because Mr. Calkins voluntarily quit the part-time Pilot Travel Centers employment without good cause attributable to the employer, Pilot Travel Centers will not be charged for benefits paid to Mr. Calkins. Mr. Calkins would not be eligible for benefits *based on the wages earned through Pilot Travel Centers* until he has worked in and been paid wages for insured work equal to 10 times his weekly benefit amount, provided he is otherwise eligible. However, Mr. Calkins remains eligible for benefits, provided he is otherwise eligible. Because this employer is not a base period employer, the voluntary quit should have no actual impact on Mr. Calkins' eligibility for benefits in connection with the claim year that started June 17, 2012.

**DECISION:**

The Agency representative's July 18, 2012, reference 02, decision is modified as follows. Claimant voluntarily quit the part-time employment without good cause attributable to the employer. The employer's account will not be charged for benefits. Claimant is not eligible for benefits *based on the wages earned through Pilot Travel Centers* until he has worked in and

been paid wages for insured work equal to 10 times his weekly benefit amount, provided he is otherwise eligible. Claimant remains eligible for benefits, provided he is otherwise eligible. Because this employer is not a base period employer, the voluntary quit has no actual impact on claimant's eligibility for benefits in connection with the claim year that started June 17, 2012.

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James E. Timberland  
Administrative Law Judge

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Decision Dated and Mailed

jet/pjs