

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**SHERRY L VOGT**  
Claimant

**APPEAL NO. 09A-UI-16990-DT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**SDH EDUCATION WEST LLC**  
Employer

**Original Claim: 10/11/09  
Claimant: Appellant (4)**

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

**STATEMENT OF THE CASE:**

Sherry L. Vogt appealed an unemployment insurance decision dated November 2, 2009, (reference 01), that concluded she was not eligible after a separation from employment from SDH Education West, L.L.C. (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on December 27, 2009. The claimant failed to respond to the hearing notice and provide a telephone number at which she could be reached for the hearing and did not participate in the hearing. Jeffrey Halverson 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 employer, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

Was there a disqualifying separation from employment due to a voluntary quit without good cause attributable to the employer?

**FINDINGS OF FACT:**

The claimant worked part-time approximately 20 to 25 hours for the employer as a front of house utility worker in the employer's contract food service at an Oskaloosa, Iowa, business client. Her last day of work was October 8, 2009. She voluntarily quit employment on that date. The employer understood her reason for quitting as stress from the pace of the work and problems getting along with some coworkers, as well as not liking her supervisor.

The claimant had other employment prior to and during the duration of her employment with the employer. The claimant established an unemployment insurance benefit year effective October 11, 2009. Her weekly claims filed thereafter reflect she has continued to earn wages, presumably from this other employment. By operation of law, upon the establishment of her claim year, her base period was determined to begin the third quarter 2008 and end with the second quarter 2009. Her high quarter of this base period was the fourth quarter 2008. This quarter served as the basis for a determination of her weekly benefit amount of \$158.00. The claimant had no wages from the employer in the fourth quarter 2008.

## REASONING AND CONCLUSIONS OF LAW:

If the claimant voluntarily quit her employment, she is not eligible for unemployment insurance benefits unless it was for good cause attributable to the employer or for some other recognized exception. Iowa Code § 96.5-1.

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.

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.

Rule 871 IAC 24.25 provides that, 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. A voluntary leaving of employment requires an intention to terminate the employment relationship and an action to carry out that intent. Bartelt v. Employment Appeal Board, 494 N.W.2d 684 (Iowa 1993); Wills v. Employment Appeal Board, 447 N.W.2d 137, 138 (Iowa 1989). The claimant did express or exhibit the intent to cease working for the employer and did act to carry it out.

The claimant has the burden of proving that the voluntary quit was for a good cause that would not disqualify her. Iowa Code § 96.6-2. Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3), (4). Leaving because of a dissatisfaction with the work environment or a personality conflict with coworkers or a supervisor is not good cause. 871 IAC 24.25(6), (21), (22). While the claimant's work situation was perhaps not ideal, she has not provided sufficient evidence to conclude that a reasonable person would find the employer's work environment detrimental or intolerable. O'Brien v. Employment Appeal Board, 494 N.W.2d 660 (Iowa 1993); Uniweld Products v. Industrial Relations Commission, 277 So.2d 827 (FL App. 1973). The claimant has not satisfied her burden to establish that the quit was for good cause attributable to the employer.

The job, however, was part-time. Under the provisions of rule 871 IAC 24.27 set out above, the claimant has sufficient wages from other employers to qualify to receive at least partial

unemployment insurance benefits. The unemployment insurance law provides that a claimant is deemed partially unemployed if she has been permanently or temporarily separated from one employer and earns less than her weekly benefit amount plus \$15.00 in other employment. Iowa Code § 96.19-38-b; see also Iowa Code § 96.3-3.

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

**DECISION:**

The unemployment insurance decision dated November 2, 2009 (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. Full or partial benefits are allowed, if the claimant is otherwise eligible.

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Lynette A. F. Donner  
Administrative Law Judge

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Decision Dated and Mailed

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