

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BARBARA WHITE

Claimant

APPEAL NO: 11A-EUCU-00628-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

CASEY'S MARKETING COMPANY

Employer

OC: 08-01-10

Claimant: Appellant (4R)

Section 96.5-1 - Voluntary Leaving
871 IAC 24.27 - Voluntary Quit of Part-Time Employment
Section 96.6-2 - Timeliness of Appeal

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the July 11, 2011, reference 06, decision that denied benefits. After due notice was issued, a telephone hearing was held before Administrative Law Judge Julie Elder on August 24, 2011. The claimant participated in the hearing with her boyfriend Barry Wilson. Greg Posekany, Store Manager, participated in the hearing on behalf of the employer. Exhibit D-1 was admitted into evidence.

ISSUE:

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

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: A disqualification decision was mailed to the claimant's last-known address of record on July 11, 2011. The decision contained a warning that an appeal must be postmarked or received by the Appeals Section by July 21, 2011. The appeal was not filed until August 1, 2011, which is after the date noticed on the disqualification decision. The claimant did not receive the decision because she was living in a women's shelter and moved shortly before the decision was issued. Consequently, the administrative law judge concludes the claimant's appeal is timely.

The claimant was employed as a part-time clerk for Casey's General Store from May 9, 2011 to June 24, 2011, when she voluntarily quit. She told the employer that she was quitting and the employer asked why and if there was any way she would stay. The claimant said it did not pay to go to work because she could get more in unemployment insurance benefits by staying home. She said the same thing to her co-workers. The claimant testified that she quit because it was unsafe and there was a "fucking crack head" and crack house next door. She said that her boyfriend refused to pick her up anymore because it was too dangerous. The claimant

never reported any concerns to the employer and there were never any unsafe incidents while she worked there.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left her employment without good cause attributable to the employer.

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.

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. 871 IAC 24.25. Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3),(4). Leaving because of dissatisfaction with the work environment is not good cause. 871 IAC 24.25(1). The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code section 96.6-2. The claimant has not demonstrated that her leaving was for good cause attributable to the employer as defined by Iowa law. Consequently, this 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 July 11, 2011, reference 06, decision is modified in favor of the claimant. The claimant's appeal was timely. 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.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

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