

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BECKY J HUGHES

Claimant

APPEAL NO: 11A-UI-09689-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

SOURCE INTERLINK RETAIL

Employer

OC: 06/12/11

Claimant: Appellant (4/R)

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

STATEMENT OF THE CASE:

Becky J. Hughes (claimant) appealed an unemployment insurance decision dated July 20, 2011, (reference 02), that concluded she was not eligible after a separation from employment from Source Interlink Retail (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on August 16, 2011. The claimant participated in the hearing. Michelle Howerton appeared on the employer's behalf and presented testimony from one other witness, Susan Soltwedel. 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.

ISSUE:

Was there a disqualifying separation because of a voluntary quit without good cause attributable to the employer?

FINDINGS OF FACT:

The claimant worked part time approximately ten hours per week for the employer as a part-time magazine merchandiser at two Iowa City/Coralville, Iowa store clients from November 4, 2010, to December 2, 2010. She voluntarily quit employment on December 2. Her reason for quitting was that she was not getting along with her coworker/trainer and felt she had been unfairly reprimanded by the coworker/trainer. She determined that the job was not what she wanted, indicated she was quitting, and left.

The claimant had established an unemployment insurance benefit year effective June 13, 2010. She did not report any wages from her employment on her weekly continued claims for unemployment insurance benefits filed for the period between October 31 and December 4, 2010; Agency wage records indicate that the employer paid the claimant \$160.00 during that period. The employer is not a base period employer for the claimant's June 13, 2010 claim.

Upon the expiration of her prior claim year, the claimant filed an additional new claim for unemployment insurance benefits with an effective date of June 12, 2011. Her base period was established as being from the first quarter of 2010 through the fourth quarter of 2010. The claimant's highest quarter of earnings during her base period was the second quarter of 2010, which did not include any wages from the employer. Her weekly benefit amount was determined to be \$387.00, based on her wages in the second quarter of 2010.

Agency records indicate that there was another representative's decision issued on June 29, 2011 (reference 01) indicating that the claimant had not yet qualified for a second benefit year by earning at least \$250.00 in wages since the establishment of her June 13, 2010 claim year. In her new claim year, the claimant filed weekly claims for period between June 26 and July 23 indicating the receipt of wages in the amount of \$464.00.

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.

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.

A person who quits employment without good cause attributable to the employer can be disqualified from further benefits even if that person has given up unemployment insurance benefits to accept the work which was then considered unsuitable. Taylor v. Iowa Department of Job Service, 362 N.W.2d 534 (Iowa 1985).

The claimant voluntarily quit employment without good cause attributable to the employer. However, the job was part time, and the claimant has wages in the base periods of both affected claim years from other employers sufficient for the claimant to qualify to receive unemployment insurance benefits. The employer's account will not be subject to charge for benefits paid to the claimant.

The administrative law judge sees some evidence that the claimant received income from the employer that should have been reported to reduce her benefits. This is a matter not included on the notice of hearing, and the administrative law judge is without jurisdiction to make a ruling on the issue. This matter is remanded to the Investigations and Recovery Unit to determine if the claimant was receiving wages that she failed to report. Further, an issue has become apparent as to whether the claimant has now demonstrated that she has as of some date since June 29, 2011 earned qualifying wages as necessary to maintain a second benefit year. This issue was also not included in the notice of hearing for this case, and the case will be remanded for an investigation and determination on that issue. 871 IAC 26.14(5).

DECISION:

The unemployment insurance decision dated July 20, 2011 (reference 02), 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. The matter is remanded to the appropriate units of the Claims Section for investigation and determination of the unreported wage issue as well as the second benefit year requalification issue.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/pjs