

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**KELLY J GERDTS**

Claimant

**DAVENPORT COMMUNITY SCH DIST**

Employer

**APPEAL NO: 11A-EUCU-00181-ST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 07/04/10**

**Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Quit  
871 IAC 24.27 – Part-time Employment Qualification

**STATEMENT OF THE CASE:**

The claimant appealed a department decision dated February 7, 2011, reference 04, that held she voluntarily quit part-time work without good cause on August 27, 2010, but benefits are allowed based on base period employment. The employer is not charged for benefits paid after August 22, 2010. A telephone hearing was held on March 18, 2011. The claimant participated. Jenni Weipert, HR Director, participated for the employer. Official Notice was taken of appeal documents as evidence.

**ISSUE:**

Whether the claimant voluntarily quit without good cause attributable to the employer.

**FINDINGS OF FACT:**

The administrative law judge having heard the testimony of the witnesses, and having considered the evidence in the record, finds: The Employment Appeal Board issued a decision January 6, 2011 that held the claimant did have a reasonable assurance of employment for the 2010/2011 school year, and it denied her unemployment benefits for the summer period up to August 27, 2010. It did not consider her employment separation that occurred on or about August 27, 2010 that was remanded by ALJ decision on October 27, 2010 for a department fact-finding.

Claimant began employment when she was placed on the employer guest teaching list as substitute teacher beginning January 13, 2006 for the school year ending early June. After receiving employer notification for whether she intended to remain employed, the claimant requested to remain on the teacher guest list for the subsequent year, 2007/2008. At the end of the school year, claimant requested she not be placed on the list for the subsequent term.

Claimant re-applied for substitute teaching on October 6, 2008, and she remained on the guest list for the remainder of the school year, and the subsequent school year, 2009/2010. The claimant last performed work as a substitute teacher on May 20, 2010.

The employer sent claimant an e-mail on June 28, 2010 with a form to advise whether she wanted to remain as a substitute teacher for the subsequent school year. The claimant received the e-mail but she failed to respond to it. The employer did not receive the form. The employer sent a follow-up e-mail to the claimant on August 23 with another form that repeated the June 28 request. The claimant did not respond. The employer concluded claimant no longer wanted to be placed on the guest list for substitute teaching, and she had voluntarily quit employment.

#### **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.

The administrative law judge concludes claimant voluntarily quit part-time work without good cause attributable to the employer on August 23, 2010, but is monetarily eligible for benefits based on wages earned for regular or other base period employers.

A voluntary quit of part-time, non-base period employment is not disqualifying. The claimant is eligible for benefits based on earnings from base period employer(s). The employer in this case shall not be charged for benefits paid to the claimant on this claim.

The employer sent e-mail notice to claimant on June 28, and August 23 to learn whether she wanted to continue employment as a substitute teacher on the guest teacher list. Claimant did not respond to the e-mail that she admits she received, and she did not return the attached form. The claimant did not respond to the August 23 e-mail communication and her explanation as to why she did not receive it is not credible. She knew the procedure for maintaining continuing employment based on prior years, and her failure to satisfactorily communicate that intention is a voluntary quit without good cause. This conclusion is supported by the Employment Appeal Board decision on January 6, 2011 that denied claimant benefits for reasonable assurance.

**DECISION:**

The department decision dated February 7, 2011, reference 04, is affirmed. The claimant voluntarily quit part-time employment without good cause effective August 23, 2010. The claimant is eligible for unemployment benefits by base period employment earnings, but the employer in this case is not liable for benefit charges.

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Randy L. Stephenson  
Administrative Law Judge

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Decision Dated and Mailed

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