

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

KEVIN L BIRCH
Claimant

O'REILLY AUTOMOTIVE INC
Employer

APPEAL 15A-UI-09073-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 07/12/15
Claimant: Respondent (4)**

Iowa Code § 96.5(1) – Voluntary Leaving
871 IAC 24.27 – Voluntary Leaving Part Time Employment

STATEMENT OF THE CASE:

The employer filed an appeal from the August 7, 2015, (reference 01) unemployment insurance decision that allowed benefits. The parties were properly notified about the hearing. A telephone hearing was held on September 1, 2015. Claimant participated. Employer participated through Darren Sauer, Store Manager.

ISSUE:

Did the claimant voluntarily quit his part-time employment?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full time initially but moved to part time when he accepted another full-time job. The last seven months of his employment he earned only \$278.00 dollars. The claimant voluntarily quit this part-time employment on April 11, 2015. He has since been laid off from his full-time job which is why he filed for unemployment insurance benefits.

The administrative record shows that the claimant is monetarily eligible for benefits after this employer's wages are excluded from the base period.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left the employment without good cause attributable to the employer, but is otherwise monetarily eligible.

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.

Iowa Code § 96.5-1-g 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. But the individual shall not be disqualified if the department finds that:

g. The individual left work voluntarily without good cause attributable to the employer under circumstances which did or would disqualify the individual for benefits, except as provided in paragraph "a" of this subsection but, subsequent to the leaving, the individual worked in and was paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

Iowa Admin. Code r. 871-24.27 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 claimant is monetarily eligible according to base period wages after wages from this part-time employer are removed. Benefits are allowed, provided the claimant is otherwise eligible.

DECISION:

The August 7, 2015 (reference 01), decision is modified in favor of the appellant. The claimant voluntarily left the employment without good cause attributable to the employer and is otherwise monetarily eligible. Benefits are allowed, provided the claimant is otherwise eligible. The account of this employer O'Reilly Automotive Inc. (Account number 280268) shall not be charged.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/pjs