

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BRIDGETTE A MAYNES

Claimant

APPEAL NO. 10A-UI-11062-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CHARLIE WALKER INCORPORATED

Employer

OC: 04/25/10

Claimant: Respondent (4/R)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

The employer appealed a representative's August 2, 2010 decision (reference 04) that held the claimant qualified to receive benefits and the employer's account subject to charge because the claimant had been discharged for non-disqualifying reasons. A telephone hearing was held on September 15, 2010. The claimant participated in the hearing. Charlie Walker, the owner, appeared on the employer's behalf. 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:

Did the claimant voluntarily quit her part-time employment for reasons that qualify her to receive benefits or did the employer discharge her for work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer in May 2009. The claimant worked part-time as a real estate assistant. Prior to June 24, 2010, the claimant's job was not in jeopardy. While the claimant did not always like comments Walker made, she was not thinking about resigning prior to June 24. After the employer encouraged her to obtain a real estate license, the claimant was studying to take a real estate exam.

On June 24, the claimant overheard a conversation where the buyer backed out of a transaction at the last minute or at closing. The seller was upset. The claimant overheard the employer tell the buyer that the seller said he would take legal action against the buyer for not going through with the deal.

After the buyer left, the claimant questioned Walker about the comments he made to the buyer. The claimant did not believe some of Walker's comments were ethical. Walker was upset when the deal did not close and responded by telling the claimant that she was not running the office and if she did not like the way he ran his office, she could leave. Walker yelled at the claimant. The claimant was upset. She made the comment that she could not work for people like you (employer) and walked out.

The employer called the claimant, but the claimant did not answer and did not return the employer's calls. When the claimant did not return to work or call the employer for two weeks, the employer took the claimant's final paycheck to her home and asked for her keys to the office.

The claimant reopened her claim for benefits during the week of June 27, 2010. She has filed for and received benefits since June 27, 2010.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quits employment without good cause attributable to the employer, or an employer discharges her for reasons constituting work-connected misconduct. Iowa Code §§ 96.5-1, 2-a. On June 24, the employer was upset when a buyer backed out of a sale at the last minute. Even though the claimant waited until the buyer left the office, she used poor judgment when she questioned the employer's comments as unethical. The employer should not have raised his voice at the claimant, but he did. He was upset when he told the claimant that if she did not like the way he ran his office, she could leave. The claimant was surprised and upset by the employer's reaction and decided to leave. When the claimant refused to answer the employer's calls, respond to the messages the employer left, or return to work, she voluntarily quit her employment by abandoning it. When a claimant quits, she has the burden to establish she quit for reasons that qualify her to receive benefits. Iowa Code § 96.6-2.

While the employer may have been out of line by yelling at the claimant right after a deal fell through, the claimant used poor judgment when she questioned the employer's ethical standards when she did. The employer gave the claimant a choice to leave if she did not like the way he ran his office. The claimant was shocked by his response and left. The claimant asserted she was afraid of the employer after he yelled at her. However, this was an isolated incident. The claimant failed to take reasonable steps after both she and the employer had an opportunity to calm down. The claimant's failure to return to work or talk to the employer after she left work on June 24 does not establish that she quit for reasons that qualify her to receive benefits.

When a claimant quits a part-time job without good cause, she may be eligible to receive benefits if she is monetarily eligible to receive benefits based on wage credits from other base period employers. 871 IAC 24.27. In this case, the claimant has wage credits in her base period from another employer. The wage credits she earned from the employer cannot be used to determine her monetary eligibility until she has been paid ten times her weekly benefit amount for insured work. Since the claimant voluntarily quit her part-time job without good cause, this matter is remanded to the Claims Section to recalculate the claimant's monetary eligibility without any of the wage credits she earned from the employer.

DECISION:

The representative's August 2, 2010 decision (reference 04) is modified in the employer's favor. The employer did not discharge the claimant. Instead, the claimant voluntarily quit her part-time job for reasons that would not qualify her to receive benefits if this had been a full-time job. As of June 27, 2010, the employer's account will not be charged. This matter is remanded to the Claims Section to recalculate or redetermine the claimant's maximum benefit amount and/or her weekly benefit amount when the wage credits the claimant earned from the employer are not included.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/kjw