

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SHARON A HANDY
Claimant

APPEAL NO: 10A-UI-10899-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

HY-VEE INC
Employer

OC: 06/13/10
Claimant: Respondent (4/R)

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

STATEMENT OF THE CASE:

The employer appealed a representative's July 28, 2010 decision (reference 02) that held the claimant qualified to receive benefits and the employer's account subject to charge because claimant's separation was for nondisqualifying reasons. A telephone hearing was held on September 21, 2010. The claimant participated in the hearing. Tim Speir represented the employer. Jeff Carter, the store director, Keaton Willard, an assistant manager, and Roxanne Nowicki, the lead accountant, 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 voluntary quit her 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 on May 29, 2009. She worked as a part-time cashier. The last day the claimant worked was February 19, 2010. The employer's policy informs employees that if they do not call or report to work for three scheduled shifts, the employer considers an employee to have abandoned her employment.

The claimant was scheduled to work on February 28, March 7 and 14. The claimant did not call or report to work any of these days. Although the claimant asserted she gave the employer a February 22 doctor's statement that indicated she was unable to work a week or until March 1, 2010, the employer did not have a this statement. Willard does not remember receiving a doctor's statement from the claimant in late February.

Schedules are posted a week in advance. The employer's records indicate an employee, J.C., called the claimant when she did not report to work for these scheduled shifts. Even though J.C. called the claimant and left a message, she did not return his phone call.

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 §§ 96.5-2-a.

This case revolves around credibility. Since the claimant did not provide a copy of the February 22 doctor's note at the hearing, the employer had no record of this doctor's note and if the claimant went to the store on March 5 and 8, she did not stay to talk to Carter, a preponderance of the evidence establishes the employer's testimony is more credible than the claimant's testimony. The findings of fact reflect the employer's testimony. The evidence does not establish that the employer discharged the claimant.

For unknown reasons, the claimant did not report to work or notify the employer that she was unable to work on February 28, March 7 and 14. The claimant may have had compelling reasons for not returning to work as scheduled after February 19, 2010. For unemployment insurance purposes, the claimant quit this employment. She did not establish that she quit for reasons that qualify her to receive benefits. The employer's account will not be charged.

Since the claimant quit a part-time job, 871 IAC 25.27 must be considered. This regulation states that when a claimant voluntarily quits a part-time job without good cause, the claimant may still be eligible to receive benefits if she is monetarily eligible to receive benefits based on wages credits from other employers in her base period. Since the claimant has other base period employers, this matter is remanded to the Claims Section to redetermine her monetary eligibility without the wage credits she earned from the employer. The wage credits the claimant earned from the employer will not be included until she has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The issue of whether the claimant has earned enough wages from other employers since February 19, 2010 is also remanded to the Claims Section to determine. If she has earned requalifying wages, it is not necessary to redetermine the claimant's monetary eligibility.

DECISION:

The representative's July 28, 2010 decision (reference 02) is modified in the employer's favor. The employer did not discharge the claimant. Instead, the claimant voluntarily quit her part-time employment by abandoning it. The claimant did not establish good cause for quitting. Therefore, the employers' account will not be charged. This matter is remanded to the Claims Section to first determine if since February 19, 2010, the claimant has earned ten times her weekly benefit to requalify to receive benefits. If she has not earned requalifying wages, the

Claims Section shall then redetermine her monetary eligibility by excluding the wage credits she earned from the employer. The claimant is eligible to receive benefits, if she is monetarily eligible.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css