

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CHERYL A SMITH
Claimant

APPEAL NO: 13A-UI-07078-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

KWIK TRIP INC
Employer

OC: 04/05/13
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit
871 IAC 24.25(3) – Seek Other Employment

STATEMENT OF THE CASE:

The claimant appealed a department decision dated June 7, 2013, reference 04, that held she voluntarily quit without good cause attributable to her employer on April 27, 2013, and benefits are denied. A telephone hearing was held on July 17, 2013. The claimant participated. Alissa Jordan, Store Leader, participated for the employer. Employer Exhibit 1 was received 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 witness testimony and having considered the evidence in the record finds: The claimant worked for the employer as a part-time guest service co-worker from August 31, 2012 to April 27, 2013. Although claimant thought she was a full-time employee, she noted on her first paystub she was listed as part time. She later raised the same issue with the store leader who confirmed she was part time though she could work as many as 36 hours or more weekly.

Claimant submitted a resignation note to the store leader on April 4, 2013 stating she would be leaving April 30 with an intention to return to teaching. The employer accepted the resignation and took her off the schedule after she worked April 27.

Claimant had previously worked at Clinton Staffing Company (All Star Staffing). She contacted this employer about a week later and went back to work for it in June.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 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 24.25(3) provides:

Voluntary quit without good cause. In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(3) The claimant left to seek other employment but did not secure employment.

The administrative law judge concludes the claimant voluntarily quit part-time employment without good cause attributable to her employer due to resignation to seek other employment effective April 27, 2013. Claimant did not have a firm offer for another job when she left employment.

While claimant was unhappy with part-time employment status, she knew and accepted it during the duration of employment. The claimant's resignation note refers to a return to teaching but she did not have such a position lined-up when leaving or a job at Clinton Staffing. Since this employer was her primary base period employer (871 IAC 24.27), the part-time base period employer exception is not applicable in this matter.

DECISION:

The department decision dated June 7, 2013, reference 04, is affirmed. The claimant voluntarily quit without good cause on April 27, 2013. Benefits are denied until the claimant requalifies by working in and being paid wages for insured work equal to ten times her weekly benefit amount, provided the claimant is otherwise eligible.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

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