

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

PATTI J CARLSON

Claimant

APPEAL NO. 19A-UI-01949-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CASEY'S MARKETING COMPANY

Employer

OC: 02/03/19

Claimant: Appellant (4R)

Iowa Code Section 96.5(1) – Voluntary Quit

Iowa Administrative Code Rule 871-24.27 – Voluntary Quit of Part-time Employment

STATEMENT OF THE CASE:

Patti Carlson filed a timely appeal from the March 1, 2019, reference 01, decision that held she was disqualified for benefits and the employer's account would not be charged for benefits, based on the deputy's conclusion that Ms. Carlson voluntarily quit on December 20, 2018 without good cause attributable to the employer. After due notice was issued, a hearing was held on March 20, 2019. Ms. Carlson participated. Connie Smith represented the employer. Exhibits 1 and 2 were received into evidence.

ISSUES:

Whether the claimant's voluntary quit was for good cause attributable to the employer.

Whether the employment was part-time, supplemental in nature.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Patti Carlson was employed by Casey's Marketing Company as a part-time kitchen clerk at the La Porte City Casey's store during two distinct periods. The most recent employment began in July 2018 and ended on December 1, 2018, when Ms. Carlson voluntarily quit. During the most recent part-time Casey's employment, Ms. Carlson began full-time employment with Maxim Healthcare Services. Ms. Carlson left the Casey's employment after deciding that the two jobs were too much to handle and after concluding that the Casey's work was too physically taxing. At the time Ms. Carlson left the part-time employment with Casey's, Casey's continued to have the same work available for her. At the time Ms. Carlson left the part-time employment with Casey's, she was still a full-time employee of Maxim.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5(1) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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.

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 698, 612 (Iowa 1980) and *Peck v. EAB*, 492 N.W.2d 438 (Iowa App. 1992). 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. See 871 IAC 24.25.

Iowa Code section 96.5(12) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

12. *Supplemental part-time employment.* If the department finds that an individual is disqualified for benefits under subsection 1 or 2 based on the nature of the individual's separation from supplemental part-time employment, all wages paid by the supplemental part-time employer to that individual in any quarter which are chargeable following a disqualifying separation under subsection 1 or 2 shall not be considered wages credited to the individual until such time as the individual meets the conditions of requalification as provided for in this chapter, or until the period of disqualification provided for in this chapter has elapsed.

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 Form 655323, 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.

This rule is intended to implement Iowa Code section 96.5(1)g.

The evidence in the record establishes that Ms. Carlson voluntarily quit the part-time Casey's employment on December 1, 2018 due to personal reasons and not for good cause attributable

to the employer. Accordingly, Casey's employer account will not be charged for benefits. Because the employment was part-time and had other base period wage credits based on full-time employment, Ms. Carlson remains eligible for reduced benefits, based on base period employment other than the Casey's employment, provided she is monetarily eligible and meets all other eligibility requirements. The wages and wage credits from the part-time Casey's employment will be excluded from Ms. Carlson's claim until she has worked in and been paid wages for insured work equal to 10 times her weekly benefit amount. This matter will be remanded to the Benefits Bureau for determination of the monetary eligibility and for calculation of the reduced benefit amount.

DECISION:

The March 1, 2019, reference 01, decision is modified as follows. The claimant voluntarily quit the part-time Casey's employment on December 1, 2018 without good cause attributable to the employer. The employer's account will not be charged for benefits. The claimant remains eligible for reduced benefits, based on base period employment other than the Casey's employment, provided she is monetarily eligible and meets all other eligibility requirements. The wages and wage credits from the part-time Casey's employment will be excluded from the claim until the claimant has worked in and been paid wages for insured work equal to 10 times her weekly benefit amount. This matter will be remanded to the Benefits Bureau for determination of the monetary eligibility and for calculation of the reduced benefit amount.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/rvs